U.S. INTELLIGENCE AGENCIES AND ACTIVITIES: DOMESTIC INTELLIGENCE PROGRAMS

HEARINGS

BEFORE THE

SELECT COMMITTEE ON INTELLIGENCE
U.S. HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

OCTOBER 9, NOVEMBER 13, 18, AND THE AFTERNOON SESSION OF DECEMBER 10, 1975

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ELECTRONIC SURVEILLANCE—RELATIONSHIP OF FEDERAL AGENCIES TO LOCAL AND STATE POLICE

THURSDAY, OCTOBER 9, 1975

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room 2118. Rayburn House Office Building, Hon. Otis G. Pike [chairman], presiding.

Present: Representatives Pike, Giaimo, Stanton, Dellums, Murphy, Hayes, Lehman, McClory, Treen, Johnson, and Kasten.

Also present: A. Searle Field, staff director; Aaron B. Donner, general counsel; James B. F. Oliphant, counsel; Richard S. Vermeire, counsel; John M. Atkisson, counsel; Ellen S. Miller, investigator.

Chairman PIKE. The committee will come to order.

Today we are going into a very different area: general consideration of the elements of risk involved in our intelligence-gathering operations. This is the risk of average people having their personal communications intercepted by agencies of the Government or by private individuals just for personal and private reasons.

Our first witness will be Mr. Michael Hershman, who for 14 months served as the Chief Investigator of the National Wiretap Commission.

Mr. Hershman, please proceed.

Mr. MCCLORY. Would you yield to me for this comment?

Chairman PIKE. Certainly.

Mr. MCCLORY. I certainly welcome the hearing this morning. Having participated in the development of the Omnibus Crime bill of 1968—including provisions regarding wiretapping and limiting the use of wiretapping and electronic surveillance to a very precise and a very limited area under very tight restrictions—I am going to look forward with interest to the testimony on this subject that we are about to receive.

Thank you, Mr. Chairman.

Chairman PIKE. Mr. Hershman, you may proceed.

STATEMENT OF MICHAEL HERSHMAN, FORMER CHIEF INVESTIGATOR, NATIONAL WIRETAP COMMISSION

Mr. HERSHMAN. Mr. Chairman and members of the committee: Thank you very much for the opportunity to appear before you this morning.

For a period of 14 months I served as the Chief Investigator for the National Commission for the Review of Federal and State Laws Re-

lating to Wiretapping and Electronic Surveillance. The National Wiretap Commission was established to conduct a comprehensive study and review of the operation and application of the electronic surveillance provisions of the Omnibus Crime bill enacted in 1968.

I would like to direct my introductory remarks to the problem of illegal electronic surveillance. During my tenure at the National Wiretap Commission the question most frequently asked of me concerned the frequency of illegal wiretapping and bugging in the United States. Although some individuals profess to have an answer to this question, no one can really know. The nature of illegal electronic surveillance is such that most individuals remain unaware of their victimization. Furthermore, many of those who do discover that they have been bugged or tapped are reluctant to report it, because of embarrassment, publicity, and a fear of subsequent investigations. These factors combine to make it virtually impossible to estimate how much wiretapping is taking place.

However, we do know that illegal electronic surveillance takes place, and there is evidence to indicate that it has not substantially declined since enactment of the Federal Wiretap Act in 1968. The motivations and incentives for illegal wiretapping have not significantly changed; illegal electronic surveillance remains an inexpensive and effective technique to gather information. In addition, it is a crime in which the rewards generally outweigh the risks.

Before going further, I would like to put my remarks in perspective. Wiretapping and bugging occurs, but certainly not to the degree claimed by many. We find that most of the individuals claiming massive eavesdropping are in the business of debugging, or selling debugging equipment.

Perhaps the most interesting point is that most of the illegal wiretapping and bugging that takes place in the United States today occurs in the private sector, and that most of it has nothing to do with preventing crime. Eavesdropping devices are targeted on employee dishonesty, on husbands and wives, political information, industrial espionage, courtship situations, and illegal police surveillance.

The significant point is that there is apparently little attempt by the Federal Government to curb these invasions of our personal privacy, or to curb the multimillion dollar traffic in spy devices. The FBI is supposed to be in charge, but the stories of blatant abuse go on and on.

A recent case illustrates the point. In 1974, a Florida man in the middle of a divorce proceeding secreted a tape recorder equipped with an automatic activator under a night table in the bedroom of his home and connected the device to the telephone wires. When asked about the purchase of the equipment, the husband stated that after having seen the equipment in a sales catalog he "walked into a retail store and bought it." The automatic activator, a device which allows for self-starting and stopping, cost $25 and the instructions explained how it should be hooked across the telephone wires and plugged into the tape recorder.

The tap, which was instituted in order to gain advantage in a child custody battle, was discovered by the wife who reported it to the telephone company. The husband was sentenced by a State court to 6 months probation.

To give some idea of how easy and widespread illegal electronic surveillance is in the United States today, I would like to report the results of an investigative study just completed by the Wiretap Commission. The purpose of the survey was to determine the types of electronic surveillance and countermeasures available to the general public and to determine the number of private investigators willing to discuss, even in the course of a simple telephone request, installing illegal eavesdropping devices.

One hundred and fifteen private investigating firms were contacted, in 7 cities; 42 either offered to perform illegal wiretapping and bugging themselves or referred the caller to another agency that would provide the illegal service. Approximately a dozen firms indicated they would be willing to discuss the subject if the caller would come into the office. The remaining firms indicated that they would only engage in debugging. The estimated costs of bugging or wiretapping ranged from $30 to $5,000, with suggested methods ranging from simple tape recorders to a closed circuit TV.

When we speak of electronic surveillance, we cannot consider the act without some mention of the tools. There is, and always has been, a proliferation of devices on the American market which are readily adaptable to eavesdropping.

Alarmingly, some of these devices are advertised, contrary to Federal laws, in popular periodicals. The manufacturers attempt to disguise their evesdropping potentials by claiming usages as "baby-sitters" and "burglar alarms." Advertisements read:

WORLD'S SMALLEST TRANSMITTER LISTEN-IN ON ANY STANDARD FM RADIO

This miniature electronic marvel picks up the slightest sound and clearly transmits them to any standard FM radio up to 350 feet away . . .

or

WALL HANGING THERMOMETER FM TRANSMITTER

which features a transmitter built into a wall thermometer. Its sensitive microphone picks up all voices and sounds in a room, transmitting by battery for more than one week.

These advertised devices are aimed at relatively unsophisticated individuals. Government agencies have no need for such simple transmitters.

When a State or local police department wishes to purchase electronic surveillance equipment it can solicit the business of any one of a dozen manufacturers which build and sell surveillance equipment to Government agencies.

Many State and local police, however, are not authorized to engage in electronic surveillance. The Wiretap Commission discovered a number of police departments in States without authorization statutes, that is, without specific laws allowing for the use of court ordered wiretapping or bugging, who were purchasing electronic surveillance equipment which could be of no lawful use to them.

The Commission's review of the sales of 10 manufacturers of electronic surveillance equipment showed that the manufacturers have left the determination of whether a particular department or official was authorized to purchase equipment largely up to the department involved, with the result that a number of sales of questionable legality have been made.

The reason given by some officials for their possession of the equipment is not entirely satisfactory. In Dallas, for example, where wiretapping without the consent of one party is not permitted, the chief of police was quoted as stating that his department used the bugging equipment "to make sure our good debugging equipment is in working order."

The results of the Wiretap Commission's study, which was conducted by only a few people, are certainly interesting, but they are particularly revealing when contrasted with the results of a Department of Justice study which was released 2 days ago. That study noted that there were only 11 convictions last year in cases it prosecuted under the electronic surveillance statutes.

Privacy invasions, as typified by illegal eavesdropping, has a chilling effect in our society. Before speaking, many people weigh the costs of speaking freely against the risk of the possible word-for-word disclosure of their conversations to unintended recipients. The comment, "I can't talk over the telephone," has become the trademark of mistrustful individuals.

One step in restoring the confidence of Americans must be an aggressive and affirmative approach to enforcing the criminal statutes against illegal wiretapping. If any one factor has led to the continuance of eavesdropping, it is the failure of law enforcement—Federal, State, and local—to take the offensive against this type of crime. The authorities must take the initiative and prove to the public that they are as interested in protecting the people's privacy as they are their property.

Thank you.

Chairman PIKE. Thank you, Mr. Hershman.

We will go next to a man who has been in the law enforcement business, Mr. Anthony J. P. Farris, former U.S. attorney, Houston, Tex.

STATEMENT OF ANTHONY J. P. FARRIS, FORMER U.S. ATTORNEY, HOUSTON, TEX.

Mr. FARRIS. Mr. Chairman, my name is Anthony J. P. Farris, and I am an attorney with Farris, Pain & Horne in Houston. From February 14, 1969, to December 30, 1974, I served as U.S. attorney for the southern district of Texas, with the principal office in Houston. The district is the eighth largest of the 94.

I understand I am here to testify about allegations of illegal electronic surveillance by local law enforcement authorities in Houston, Tex., about the lack of aggressiveness by the FBI in investigating those allegations, about allegations that the FBI and DEA had known about illegal electronic surveillance by Houston Police Department officers and neither investigated them nor reported them, and about allegations that both FBI and DEA agents had either participated in illegal electronic surveillance, or at least witnessed it.

These matters first came to light when the IRS commenced an investigation of a big-time heroin dealer in Houston in 1971. That investigation led the IRS into an investigation of illegal electronic surveillance by certain members of the Houston Police Department. The latter investigation commenced in September of 1972 and resulted in indictments of nine officers in May of 1974.

When the allegations of Houston Police Department illegal electronic surveillance began to surface in the late summer and early fall of 1973, my chief assistants and I commenced communication with the FBI in Houston about these possible violations and started to send material to the FBI. Allegations then commenced about participation in illegal electronic surveillance by the FBI and DEA. In preliminary and pretrial hearings in the case of *United States* v. *Dudley Clifford Bell, Jr.* in November of 1973, counsel for defendant alleged that the FBI special agent in charge knew about the Houston Police Department's illegal activities and did not investigate them. He also alleged that electronic eavesdropping equipment had been sold to a named FBI agent in Houston and that Federal funds had gone to the purchases of equipment for electronic surveillance purposes by local law enforcement entities.

I sent a copy of that transcript to the FBI special agent in charge in Houston in the fall of 1973. In short, the FBI in Houston had information before them of probative value of allegations of illegal electronic surveillance by local and Federal authorities in the fall of 1973.

The investigation being conducted by the IRS in the fall of 1973 resulted in indictments of seven Houston police officers and two former police officers in early 1974. From late 1973 until early 1974 I attempted to keep the same IRS agents on the investigation of the Houston police department with the idea in mind that it was really an ongoing investigation. Commissioner Alexander denied that request through his assistance because the IRS is chartered to investigate only title 26 matters.

Chairman PIKE. I want to interrupt you for a moment. I want the photographers sitting in front of the table to please move. These witnesses are doing the best they can, but I personally find the photographers sitting right in that place offensive.

Go ahead, Mr. Farris.

Mr. FARRIS. Thank you, Mr. Chairman.

Commissioner Alexander denied that request through his assistants because the IRS is chartered to investigate only title 26 matters. From late 1973 to April 1974, my chief assistants and I continued to communicate with the FBI in Houston relative to the Houston Police Department electronic surveillance and we did so by telephone, in person and in writing. In April 1974, we sent a lengthy letter with exhibits to the FBI special agent in charge in Houston and asked him formally, firmly, and in writing to commence his investigation if he had not already done so. A copy of this lengthy letter and copies of the exhibits were sent to the General Crime Section in the Department of Justice in Washington. The FBI only saw fit to assign one agent to this complex investigation of the country's fifth largest police department. This FBI agent submitted reports to our office which were notable only in their lack of substance, depth, and consisted largely of Xeroxed newspaper articles. We continued to communicate in writing, by telephone and in person with the FBI in Houston urging them to give us something to work on and my then assistant chief of criminal matters spoke in blunt English to the lone agent assigned to this matter. In June 1974, a new special agent in charge had taken over in the Houston office of the FBI. Our letters, memos and phone calls to the FBI in Houston continued unabated, with copies to Washington, through December

1974. There was no noticeable increase in quantity or quality of the FBI reports received by us. In the latter part of 1974, the new police chief, Carroll Lynn, gave us additional information about allegations of the Houston Police Department's illegal electronic surveillance, about allegations that the FBI and DEA had participated in illegal electronic surveillance and that the FBI and DEA had known about these illegal activities and had done nothing about them. We passed these allegations on to an FBI inspector visiting in Houston in late October or early November 1974 and to the General Crime Section of the Department of Justice.

Finally, in December 1974, unable to get cooperation from the FBI in Houston, I wrote a lengthy letter to Attorney General Saxbe with copies to the Deputy Attorney General, the Assistant Attorney General in charge of the Criminal Division, and to the General Crime Section recapitulating every point I could think of and sending as exhibits copies of all the correspondence with the FBI, copies of the transcripts of the Dudley Bell hearings and copies of the transcripts of the recordings made by Chief Lynn of his own men.

I know of my own knowledge that the investigation of the Houston Police Department matters, as conducted by the FBI through 1974, would rate 1 on a scale of 10. I know of my own knowledge that when there were hijacking and kidnapping cases in Houston, the FBI had brought in many agents from other offices and I know of no FBI policy that would forbid bringing in agents from other FBI offices to help out in the Houston Police Department case. I know of no internal investigation having been conducted by the FBI of either the type of investigation conducted by the FBI of the Houston Police Department or of allegations of illegal electronic surveillance by Federal officers. I do know personally that through December 30, 1974, the General Crime Section of the Criminal Division of the Department of Justice showed very little interest in the investigation of this country's fifth largest police department or of the allegations that Federal agents had actually witnessed illegal electronic surveillance activities and had done nothing about them.

In closing, I would once again bring up a suggestion that the FBI bring in agents from other offices to investigate allegations of illegal activities by local law enforcement officers. This was first suggested by five U.S. attorneys, in Arizona in 1973, while meeting with Bill Cleveland of the FBI. Mr. Cleveland indicated to us that he interpreted our suggestion as an affront to the integrity of the FBI. We repeated this suggestion in a report to the Attorney General early in 1974, and two of us repeated it to Clarence Kelley in New Orleans in September 1974 at the U.S. Attorneys' Conference. I personally repeated it to two committees here in Washington this year and am repeating it once again now.

Chairman PIKE. Thank you very much.

Our next witness will be Anthony Zavala, a former officer of the narcotics division of the Houston Police Department, who has a unique and interesting tale to tell us.

Go ahead, Mr. Zavala.

STATEMENT OF ANTHONY ZAVALA, FORMER OFFICER, HOUSTON POLICE DEPARTMENT, ACCOMPANIED BY PHILIP S. GREENE, ATTORNEY

Mr. ZAVALA. Mr. Chairman and members of the committee, my name is Tony Zavala. I want to thank the committee for giving me this chance to testify today, and I hope I can help in your investigation. I also hope that by telling you what I know, I can help other police officers from falling into the same trap that I did—learning to break laws, and winding up on my way to prison.

I am a former police officer with the Houston Police Department, narcotics division. I joined the department in 1965. I started in narcotics in 1967, where I stayed until 1973, when I was suspended preceding my indictment in 1974 on wiretapping charges. In June of 1975, I pled guilty to one count of wiretapping. Three weeks ago I was sentenced to 3 years in Federal prison. I begin my prison term 1 week from next Tuesday.

During my work with narcotics at the Houston Police Department I became more and more involved with wiretapping. The first time was in early 1968, when one of my supervisors ordered me to monitor a conversation from an empty building in downtown Houston. The last time was in 1972, when I monitored conversations in a narcotics case, where because of the wiretapping involved, all charges against the suspect were dismissed. In between, from 1968 to 1972, I was personally involved in about 35 illegal wiretaps.

I might add, Mr. Chairman, that wiretapping was the most effective law enforcement tool that we had.

And there were other divisions using wiretaps: Intelligence, vice, homicide, burglary and theft. Again, I know this only through the casual talk of many fellow officers at headquarters. But we all talked, every day. We would talk about our cases—the names, who we were tapping, what we were hearing, how it was working out.

And while we talked, members of other agencies—Federal agencies, like BNDD and the FBI—would walk in and walk out, and participate in the conversations.

While I cannot point to any one specific conversation with any one particular FBI agent, for example, I know that it was all discussed freely, and that everyone knew what was going on. Wiretapping, in fact, became second nature to us all.

So that the committee may have some idea of the *modus operandi* of tapping in Houston, I will describe our procedures. When one of us wanted a tap, we would ask one of our supervisors—a sergeant, a lieutenant, or a captain. If the supervisor approved, and he always did, he would telephone someone I happen to know at Southwestern Bell Telephone Co. for the particular "cable and pair information" we needed for the tap. The individual at the phone company routinely supplied what we needed a short time later. He would call the supervisor usually; but sometimes he would call back directly to officers like me.

The "cable and pair" information would include a specific location where the tap was to be installed. That information would be given

to another officer who was assigned to actually install the tap—usually on a telephone pole. Later, the field officer, like me, was told he could go ahead and monitor, and that's what he did.

Sometimes we would lose a tap. That is, telephone company workmen would discover a tapping device. They would call us, ask if we had lost the device, and return it without another word.

The telephone company was involved in other ways, too. We used to attend narcotics training seminars. I did not think it was strange at the time, but there was always a Southwestern Bell representative there. He would offer complete cooperation in our enforcement efforts. Any information we needed, he said, we could have.

The equipment for these taps was produced by our own police department. It was manufactured, as a matter of fact, on the sixth floor of headquarters. That also was common knowledge among us all, and the Federal men who frequented our headquarters.

I myself have been in that sixth floor facility many times.

The guys who actually installed the taps were well trained, and the training was always being updated. The supervisors wanted everybody to be able to install a tap, but that meant climbing poles, and some of us were afraid of heights. I remember a sergeant announcing that a pole-climbing school would be started in the department to take care of that. But it never got going.

Mr. Chairman, I understand the committee is interested in Federal officers' direct participation in wiretaps. I heard about many cases from fellow police officers. But that is hearsay. I have more direct knowledge.

On one occasion—in 1969—I was assigned by a captain to monitor a drug case. It was a lengthy tap. My job was to monitor on nights and weekends. One night a fellow police officer introduced me to several narcotics agents, two of whom I got to know pretty well, as they kept coming and going, and listening with me to the conversations of the target. Some weeks later the suspect in the case was arrested—by the Federal agents, incidentally—and afterward the three of us were discussing the wiretap at police headquarters. My two Federal friends were disturbed because the entire conversation took place in front of a high-ranking BNDD supervisor. They said I shouldn't talk about wiretapping in front of him that way. The supervisor was smiling the whole time.

In 1971, I conducted a wiretap on a narcotics suspect for about 2 months. During the whole 2-month period I supplied the content of the tap to a U.S. Customs agent.

In 1972 and 1973, I worked as a DALE task force officer, during which time my paycheck came from LEAA. In one case I remember I attempted to obtain legal wiretap authorizations, through the Federal authorities I was working with. After awhile, I was told in effect that the "title III procedures were too much of a hassle" and that I would have to "do it in another way." I definitely understood the word "it" to mean the wiretap I wanted. Later, I did conduct a wiretap in that case, without going through any title III procedures.

I would like to say also, while I was working with DALE's Federal men, there were many conversations about my DALE cases. It was never said in so many words, but I am sure it was understood that wiretaps were being conducted.

As time went on, late in my work with the Department, the secrecy and the lying became a real burden for me. I wanted out. I tried several times to get transferred. But it never worked out. The Feds started to get interested in the case, too.

Once, in 1972, the FBI apparently started an investigation. But in that case our department conveniently knew about it in advance. One of my superiors told us to "knock off the wiretaps for awhile; I just got the word from the Feds; a task force is in town ready to arrest anybody it finds wiretapping—even police officers." That happened a couple of times.

Mr. Chairman, I have just spoken about some illegal things involving some people I know. I know the names. And I have given the names to your staff. I have also cooperated with the U.S. attorney in Houston as fully as I know how. He is continuing his investigation of these matters. Also, there is now sitting a Federal grand jury, before which I have already testified. I have also been told of the rules of this committee concerning accusations of crime. That is why I have not mentioned the names I know in this public hearing.

Thank you, Mr. Chairman. I will try to answer any questions the committee may have.

Chairman PIKE. Thank you, Mr. Zavala.

The committee will stand in recess for approximately 15 minutes. We have a vote going on on the floor of the House.

[Brief recess.]

Chairman PIKE. The committee will come to order.

We move from the environment of Houston to the environs of Washington, D.C. Our next witness will be Mr. Martin L. Kaiser, the president and sole owner of Martin L. Kaiser, Inc.

Go ahead, Mr. Kaiser.

STATEMENT OF MARTIN L. KAISER, PRESIDENT, MARTIN L. KAISER, INC.

Mr. KAISER. Thank you, Mr. Chairman.

My name is Martin L. Kaiser and I am the president and sole owner of Martin L. Kaiser, Inc., a Maryland corporation chartered in 1965, which specializes in the development and manufacture of electronic surveillance and countermeasure equipment. We presently market over 300 products and have serviced, and continue to service, a large variety of Federal, State, and local law enforcement agencies. Our list of clients includes, but is not limited to, the CIA, DIA, Army Intelligence, OSI, DEA, IRS, Treasury, the FBI, and numerous State and local law enforcement agencies.

I was recently hired as a consultant by President Sadat of Egypt to develop the electronic surveillance and countermeasure capabilities for an Egyptian equivalent of our Secret Service.

Recently I also received the Baltimore County Distinguished Citizen Award.

In 1968, the Omnibus Crime Act was passed by Congress and its passage had a great impact on the manufacture and sale of electronic surveillance equipment. Pursuant to this act, the manufacture, assembly, possession, and sale of electronic surveillance equipment was severely restricted. Advertising of such equipment was absolutely for-

bidden. I noticed that there were two types of firms who remained in the marketplace—those who were willing to live up to the dictates of the Omnibus Crime Act and those who flagrantly violated such acts and their mandates.

I called numerous and glaring violations dealing with illegal manufacture, sale, advertising, and stockpiling to the attention of the FBI. These types of violations were clearly revealed by advertisements for electronic surveillance equipment which were occasionally very transparent and misleadingly disguised as novelty items and which proliferated in both trade and popular magazines. I would like to call your attention to a variety of these items, copies of which are included in your briefing books.

We have an advertisement that appeared in Law Enforcement News about a device known as a "Telephone Watchman"—in the upper corner—manufactured by a company known as TELCO. This is the infamous infinity transmitter which is designed primarily for surreptitious listening through telephone lines.

As far as wiretapping is concerned, in the latest issue of the Lafayette catalog on page 103, we have two wiretaps that are not hidden at all, shown in that catalog. Here is a catalog that shows a body transmitter by Security Specialists, Inc. The reason it is called a body transmitter is because under some State laws you are permitted to wear a transmitter for security reasons. However, I would wager that only 1 percent are used for security and the rest wind up somewhere else.

To the best of my knowledge, none of the many violations which I reported to the FBI ever resulted in prosecutions. The advertisements have not abated. In fact, they have proliferated and the companies are flourishing. While I do not know exactly why the FBI refuses to enforce the regulations pertaining to electronic surveillance equipment and enacted by Congress, I can offer this theory: The FBI investigators do not seem to possess sufficient technical expertise in order to feel confident in bringing cases against these violators. Therefore, as time goes by it becomes increasingly more difficult for them to prosecute activities they have allowed to flourish over a period of years. This problem becomes more complex when we deal with technical advertisements. Again I call your attention to page 103 of the Lafayette catalog. Devices described on this page can only be used in the furtherance of wiretapping.

Devices on that page, by the way, have only one purpose and that is wiretapping. During one of my recent visits at the FBI laboratories, I noticed a very large staff—I would estimate about 20 people—very carefully examining blown up schematic designs of a pinball machine. They were apparently trying to put together some sort of case regarding the interstate transportation of pinball machines to Louisiana. Perhaps if a similar effort was expended to insure Bureau familiarization with the components of electronic surveillance equipment, the illegal traffic in these materials might be arrested.

I began my relationship with the FBI around 1967 or 1968. All my correspondence was sent directly to the FBI. However, I think it was on only one occasion that the Bureau ever contacted me personally. All other purchases were made personally or verbally. Once they began purchasing equipment I was directed not to send this equipment to the FBI, but rather sell it to a company known as U.S.

Recording, a private company operating on South Capitol Street in Washington, D.C. I informed the Bureau, as if they needed that piece of information, that Federal law would not allow me to sell equipment to anyone except bona fide governmental agencies. The FBI agents assured me my actions were proper and subsequently supplied a stamp of U.S. Recording which purported to certify on the purchase orders that the transaction was in accordance with Federal law.

I might point out at this time, by the way, that nearly all the equipment deliveries I made to the Equipment Bureau involving orders to U.S. Recording were handled by me and billed to U.S. Recording. So the paperwork went through that route. I discovered at one time that U.S. Recording was adding a 30-percent markup on the bills for the equipment. During my dealings with the Federal Bureau of Investigation I sold them approximately $100,000 worth of electronic equipment.

I was recently contacted by a distributorship in New York which informed me that they had received a request for my equipment to be routed through U.S. Recording. I have provided you with their brochure which shows that the specific item ordered is marked up 100 percent over my wholesale price. I have no idea what U.S. Recording is going to tack on, but I am sure it will be considerable. I am in the constant process of improving and adding innovations to my equipment. I do this in order to insure the high performance of my equipment. I will modify any equipment I have sold with my latest innovations absolutely free of charge. In 1975 I contacted the Federal Bureau of Investigation in order to have them return equipment purchased from me so that I could modernize and upgrade the quality of these electronic devices. The FBI initially denied that they had any of my equipment. I consider this type of action not only frustrating, but a foolish exercise of secrecy for its own sake. Eventually, the FBI did admit possession of my equipment. However, it has not been returned to me.

In the course of my dealings with the other governmental agencies to which I have previously alluded, I found myself in another complex business arrangement. Whenever I would orally contract to furnish a governmental agency with electronic surveillance equipment, the written order for such equipment would always be routed through Fort Holabird as a U.S. Army order. There was no indication on the order as to the real purchaser of the equipment.

My association with Fort Holabird put me in a position to notice that many of my pieces of equipment were being inserted in a number of imaginative objects, including but not limited to mattresses, golf clubs, and electric toothbrushes.

In summation, it is clear to me, as an expert in the field of electronic surveillance equipment, that the FBI demonstrates virtually no interest in enforcing Federal laws dealing with electronic surveillance equipment. This is discouraging to me, both morally and financially.

If the committee is interested, I would be pleased to demonstrate examples of equipment which I have sold to the intelligence community.

Thank you.

[Mr. Kaiser's prepared statement follows:]

PREPARED STATEMENT OF MARTIN L. KAISER, PRESIDENT, MARTIN L. KAISER, INC.

Mr. Chairman and members of the committee. My name is Martin L. Kaiser and I am the president and sole owner of Martin L. Kaiser, Inc., a Maryland corporation chartered in 1965, which specializes in the development and manufacture of electronic surveillance and counter-measure equipment. We presently market over 300 products and have serviced and continue to service a large variety of Federal, State and local law enforcement agencies. Our list of clients includes but is not limited to the CIA, DIA, Army Intelligence, OSI, DEA, U.S. Postal Service, Secret Service, ATF, IRS, Treasury, the FBI and numerous State and local law enforcement agencies.

In 1975 I received the Baltimore County Distinguished Citizen Award. I have been hired as a consultant by law enforcement agencies throughout the United States and was recently commissioned by President Sadat of Egypt to develop the electronic surveillance and counter-measure capabilities for the Egyptian Secret Service.

In 1968, the Omnibus Crime bill was passed by Congress and its passage had a great impact on the manufacture and sale of electronic surveillance equipment. Pursuant to this act, the manufacture, assembly, possession, and sale of electronic surveillance equipment was severely restricted. Advertising of such equipment was absolutely forbidden. I noticed that there were two types of manufacturers, those who lived up to the dictates of the Omnibus Crime Act and those who flagrantly violated its mandates. I called numerous and glaring violations dealing with illegal manufacture, sale, advertising and stockpiling to the attention of the FBI. These types of violations were clearly revealed by advertisements for electronic surveillance equipment which were occasionally transparent and misleadingly disguised as novelty items and which proliferated in both trade and popular magazines. I would like to call your attention to a variety of these items, copies of which are included in your briefing books.

To the best of my knowledge none of the many violations which I reported to the FBI ever resulted in prosecutions. The advertisements have not abated. In fact, they have proliferated and the companies are flourishing. While I do not know why the FBI refuses to enforce the regulations pertaining to electronic surveillance equipment and enacted by Congress, I can offer this theory. The FBI investigators do not seem to possess sufficient expertise in order to feel confident in bringing cases against these violators. Therefore, as time goes by it becomes increasingly more difficult for them to prosecute activities they have allowed to flourish over a period of years. This problem becomes more complex when we deal with technical advertisements. I call your attention to page 103 of the Lafayette catalog. Devices described on this page can only be used in the furtherance of wiretapping.

During one of my visits to the FBI, I noticed an entire staff of people intently examining blown up schematic designs of a pinball machine. They were apparently trying to put together some sort of case regarding the interstate transportation of pinball machines to Louisiana. If a similar effort was expended to insure Bureau familiarization with the components of electronic surveillance equipment, the illegal traffic in these materials could be arrested.

I began my relationship with the FBI around 1967 or 1968. All my correspondence was sent directly to the FBI. However, the FBI would never correspond with me. Instead, they sent agents to my factory who selected equipment and made large orders. I was directed not to send equipment to the FBI, but instead to sell it to the U.S. Recording Co., a private company located at 1347 South Capitol Street, Washington, D.C. I informed the Bureau that Federal law would not allow me to sell to anyone except bona fide governmental agencies. The FBI agents assured me my actions were proper and subsequently supplied a stamp to U.S. Recording which purported to certify on the purchase orders that the transaction was in accordance with Federal law. Subsequently, I discovered that U.S. Recording was charging the FBI a 30 percent mark-up on the products that I supplied to them. During my dealings with the Federal Bureau of Investigation, I sold a total of $——— worth of electronic surveillance equipment to the FBI which was routed through U.S. Recording.

I was recently contacted by a distributorship in Massachusetts which informed me that they had received a request for my equipment to be routed through U.S. Recording. I have provided you with their brochure which shows that the specific item ordered is marked up 100 percent by the company in Massachusetts and will undoubtedly receive a further mark-up at the hand of U.S. Recording on the way to its ultimate consumer.

I am in the constant process of improving and adding innovations to my equipment. In order to insure the high performance of my equipment, I will modify any equipment I have sold with my latest innovations absolutely free of charge. In 197–, I contacted the Federal Bureau of Investigation in order to have them return equipment purchased from me so that I could modernize and upgrade the quality of these electronic devices. The FBI initially denied that they had any of my equipment. I consider this action not only frustrating, but a foolish exercise of secrecy for its own sake. Eventually, the FBI did admit possession of my equipment.

In the course of my dealings with the other governmental agencies to which I have previously alluded, I found myself in another complex business arrangement. Whenever I would orally contract to furnish a governmental agency with electronic surveillance equipment, the written order for such equipment would always be routed through Fort Holabird as a U.S. Army order. There was no indication on the order as to the real purchaser of the equipment.

As an aside, while at Fort Holabird, I noticed that my equipment was being inserted into a number of imaginative objects, including but not limited to mattresses, golf clubs and electric toothbrushes.

In summation, it is clear to me as an expert in the field of electronic surveillance equipment, that the FBI demonstrates virtually no interest in enforcing Federal laws dealing with electronic surveillance equipment. This is discouraging to me, both morally and financially.

If the committee is interested, I would be pleased to demonstrate examples of equipment which I have sold to the intelligence community.

Thank you.

Chairman PIKE. Would the members like to see some of this equipment demonstrated at the present time or would you rather do it privately later on? Go ahead, Mr. Kaiser, just show us some of your little devices since you have them all here.

Mr. KAISER. All right. I will come around the front of the table and talk loudly since I will be off mike. I have several pieces of electric surveillance equipment with me also which would show you how some of this equipment is being marketed. Here is a piece of equipment from a company known as EDCOR which is a wireless microphone which is turned on and works then like any other surveillance device.

What you see in front of you is some equipment involved in detection of the devices. Again, it is the technology that is important, not the hardware. In this unit here we have some equipment which is designed primarily for detection of wireless and wired microphones. In this system here we have detection of modifications to the telephone which would render it useful for eavesdropping purposes when it is hung up. Part of the complexity of this problem in the case of the telephone has been modified. There is no device involved at all. It is merely a placing of one or two wires in a different location. So this thoroughly complexes the business of enforcement of the law itself. There are many other examples aside from the telephone. That is basically the nature of this equipment.

Chairman PIKE. What items of equipment are most available to the general public and are most used privately for wiretapping?

Mr. KAISER. The general purpose wiretap that is sold by Lafayette for approximately $24.95. There are two of them. One of the firms that sells it is an extremely large firm. It is sold by a company in New York as wiretap equipment. You can buy the entire system for $69.95—wiretap and recorder.

So these are available to the general public, and there is no restriction on their use whatsoever.

As far as actual surveillance equipment, I recently saw a little bug, in the shape of a bug, with a bug inside of it, which was sold as a novelty item. Mr. Hershman pointed out the thermometer.

I have over here a Dick Tracy radio which makes a very good surveillance device for $4.95. This is part of the question of where we stop and what we do about it. Did I answer your question?

Chairman PIKE. Thank you very much. Mr. McClory?

Mr. MCCLORY. How do you detect whether or not a wiretap is on? For instance, that piece of equipment is hooked up someplace. How does anyone know that? Is there some kind of a signal or some variation?

Mr. KAISER. No; not really. Any one of the wiretaps I mentioned to you earlier, as well as my wiretaps, when properly attached to the telephone line, are undetectable. If the wiretap is on the premise, you can find it physically, but electrically it is very difficult to do.

Mr. MCCLORY. There is no piece of equipment that you have, or that you know of, that would be able to detect a wiretap which was outside of the premises where the phone was being tapped?

Mr. KAISER. There are devices, mine as well, that will detect certain types of wiretaps. Again, there is a whole rafter of technology that falls into wiretapping. If it is an electric switch such as mine or in the Lafayette catalog, there is no way you can detect it. This is something I stress to my customers; I can't help them between their premises and the central office. There is no way to properly handle that.

Chairman PIKE. I think the committee will now proceed under the 5-minute rule. I would like, just for openers, to advise the members of the committee that I have asked the Capitol Hill Police to once again check all of the committee members' offices for possible bugging devices. That is being done today.

I want to ask just one question of Mr. Farris. Mr. Farris, have you talked with other U.S. attorneys around the country about this subject? If you have, does there seem to be a general consensus that the FBI is not interested in prosecuting wiretap cases simply because they get the benefits of the wiretaps?

Mr. FARRIS. I have discussed the subject with some of my former colleagues. Mr. Chairman. But I cannot say that that is the reason why the FBI might not investigate illegal electric surveillance. We are in agreement, however, that it is a very hard thing, apparently, for the FBI to investigate any violations of the law of police officers that they deal with on a day-to-day basis. We are in agreement on that.

Chairman PIKE. I yield the balance of my time to Mr. Dellums.

Mr. DELLUMS. Thank you, Mr. Chairman.

Mr. Kaiser, can the telephone company open a phone with the receiver down?

Mr. KAISER. Can the telephone company do it?

Mr. DELLUMS. Yes.

Mr. KAISER. I don't know if they have that technology. I can do it for you. I don't think they have that technology right now, or are they interested in it.

Mr. DELLUMS. Thank you.

Mr. Zavala, prior to your coming to testify today, were you visited by the Drug Enforcement Agency? If so, what did they want?

Mr. ZAVALA. I was visited 2 days ago by two members of the DEA Internal Security Section.

Mr. DELLUMS. What did they want from you?

Mr. ZAVALA. Well, basically, they wanted to know about statements that I have made in the press about naming the names of people.

Mr. DELLUMS. Is it your opinion that they were in any way attempting to control your testimony?

Mr. ZAVALA. I don't believe so. They asked me if this committee was paying me to come up here and testify. They also asked me what the committee wanted to know.

Mr. DELLUMS. Why in the hell didn't they come to the committee to find out what we wanted to know?

Mr. ZAVALA. I have no idea.

Mr. DELLUMS. Can you supply the names of the people who visited you 2 days ago in private session?

Mr. ZAVALA. No, sir; but my attorney has their names. They contacted us at the office. I don't remember their names.

Mr. DELLUMS. Your attorney can make them available to the committee?

Mr. GREENE. Yes; I can. I have their names in my office in Houston. They came by my office to speak with another client of mine, and accidentally Tony dropped in, and when they saw him there, they indicated they wanted to speak with him, also.

Mr. DELLUMS. Mr. Zavala, do you know if the DEA has investigated the charges of DEA agents' cooperation in illegal wiretaps?

Mr. ZAVALA. No, sir; I don't have that information.

Mr. DELLUMS. As I understand it, they are starting an investigation today, which is rather interesting.

Mr. ZAVALA. Yes, sir.

Mr. DELLUMS. Mr. Farris, are you aware of any relationships between Southwestern Bell and the DEA and the FBI office in Houston, Tex., and if so, can you explain in as much detail as you can?

Mr. FARRIS. Congressman, I am only aware that the chief of security of Southwestern Bell in Houston is a former FBI agent and is a close personal friend of many of the senior agents as well as the former SAC in Houston.

Mr. DELLUMS. Do you have any idea about the number of former FBI agents and former Houston police officers who are on the payroll of the security personnel of the Southwestern Telephone Co.?

Mr. FARRIS. No, sir. I know that it is considerable. I know that the committee staff has a table with the names of all the Southwestern Bell security people and the number of years they spent as FBI agents. I also know that in the past, something over 100 Houston Police Department officers moonlighted as security people for Southwestern Bell.

Mr. DELLUMS. Thank you.

Mr. Chairman, I would like to reserve the balance of my time but prior to doing that——

Mr. GIAIMO [presiding]. You were on the chairman's time, and it has expired. Now you have your own time.

Mr. DELLUMS. I reserve my own time.

Mr. GIAIMO. Mr. McClory?

Mr. MCCLORY. Mr. Zavala, the illegal wiretapping that you were doing—was that because there were no court orders received before the wiretaps were placed?

Mr. ZAVALA. Well, Texas doesn't have any law regarding wiretaps as far as giving a legal tap.

Mr. MCCLORY. You were not involved in any Federal case? Was this narcotics?

Mr. ZAVALA. These were narcotics cases, Mr. McClory.

Mr. MCCLORY. Was organized crime involved?

Mr. ZAVALA. No, sir; I don't think so.

Mr. MCCLORY. Did you know what the law was at the time you were conducting these investigations?

Mr. ZAVALA. Yes, sir; I did.

Mr. MCCLORY. Now, Mr. Kaiser, are you the largest manufacturer of this wiretap and electronic surveillance equipment?

Mr. KAISER. No, I would have to say no. I probably rank among the smallest. There are two very, very large firms in this business that result in probably the largest percentage of the sales.

Mr. MCCLORY. You sell to the FBI and then you sell to public agencies, don't you?

Mr. KAISER. Do I sell to publications?

Mr. MCCLORY. Public law enforcement agencies.

Mr. KAISER. Yes, they must be a bona fide law enforcement agency—not an agent but an agency.

Mr. MCCLORY. What reason do you think there is for the FBI purchasing through the U.S. Recording Co.?

Mr. KAISER. I have never gotten a satisfactory answer to that. They told me this is the way it was going to be done and if I wanted to do business with them it had to be done this way.

Mr. MCCLORY. Do you service your own equipment? U.S. Recording is not just a service agency; is it?

Mr. KAISER. I do service my own equipment.

Mr. MCCLORY. Do they provide service?

Mr. KAISER. They may also provide service. I don't know if they do.

Mr. MCCLORY. You don't know if service is included in their 30-percent markup?

Mr. KAISER. No, I have no way of knowing that. The important point to make is that I will do it free forever as long as I am alive. Why give it to somebody else?

Mr. MCCLORY. Do you or somebody else at the table have an estimate as to how many illegal wiretaps are being carried on at the present time? Do you have a ball park estimate?

Mr. HERSHMAN. As I mentioned, sir, in my opening statement, I think that is somewhat impossible to determine. It is like asking me how many people cheat on their income tax. It is a type of crime not readily observable and doesn't lend itself toward estimates of frequency of occurrence. I can, however, say that in the normal course of their business the American Telephone & Telegraph Co. comes across approximately 200 illegal devices nationwide per year.

Mr. MCCLORY. Mr. Farris, you indicated that if the FBI were to assign agents from other areas they would be able to handle the illegal wiretap situation or at least make a substantial contribution in the Houston area. Do you know how many personnel the FBI would require, or how much money would be needed, in order to enforce the law that we enacted in 1968?

Mr. FARRIS. Congressman, I witnessed during my 6 years as U.S. attorney in Houston many instances where the FBI brought in agents from 5 or 600 miles to help out in hijacking cases, et cetera.

Mr. MCCLORY. Right. You told us about that. How many would you require to handle the wiretap violations?

Mr. FARRIS. I would say that half a dozen experienced agents could do the job if this is the only assignment they had.

Mr. MCCLORY. They could work in one community. How many do you think we would need in order to handle the problem nationwide?

Mr. FARRIS. I can't answer that because I do not know what the problem is, other than in Houston.

Mr. MCCLORY. It would probably be in the hundreds.

Mr. FARRIS. Probably, yes.

Mr. MCCLORY. Have they ever told you that the problem was a lack of personnel and that the Congress had not provided sufficient funds or sufficient personnel for handling the enforcement of the law that we enacted?

Mr. FARRIS. No, sir; they never gave me a reason why.

Mr. MCCLORY. That could be a reason?

Mr. FARRIS. That could be but I don't think so.

Mr. MCCLORY. Well, they can't do it without personnel. You don't want them to take personnel off hijacking or anything like that in order to handle this?

Mr. FARRIS. No. I think this is a matter of priority. If Congress enacts an act, and you did, and you say in only those States where there is enabling legislation passed are they to have legal electronic surveillance, then since the FBI is the only agency chartered to do it, obviously they are the ones that have to. They have to find the priority.

Mr. MCCLORY. My time has expired.

Mr. GIAIMO. The gentleman's time has expired.

The gentleman from California is recognized.

Mr. DELLUMS. I would like to reserve my time.

Mr. GIAIMO. The gentleman from Illinois, Mr. Murphy.

Mr. MURPHY. Mr. Hershman, you indicated there were some 200 wiretaps that A.T. & T. would come across.

Mr. HERSHMAN. Yes.

Mr. MURPHY. What, if anything, did they do about them?

Mr. HERSHMAN. According to the figures supplied to the National Wiretap Commission by A.T. & T., for 8 years, ending in 1974, they discovered approximately 1,500 illegal devices. Out of those, approximately 610 cases were turned over to the FBI.

Mr. MURPHY. What happened to those cases?

Mr. HERSHMAN. We received figures from the FBI indicating that, No. 1, they could only establish approximately 473 of those having ever been turned over; and No. 2, of the approximately 473——

Mr. MURPHY. What happened to the difference between the telephone company's estimate and the FBI's estimate as to what was reported?

Mr. HERSHMAN. We have never been able to determine that.

Mr. MURPHY. Does A.T. & T. report these to the local district attorney or do they send them into Washington?

Mr. HERSHMAN. Normally they report it to the local office of the FBI.

Mr. MURPHY. Could a proper assumption be made then that the local district attorney, in cooperation with some Federal agency, knew of that tap and then did not report it or investigate further?

Mr. HERSHMAN. Certainly almost 100 percent of the devices found were reported to some law enforcement agency. There is only one subsidiary of A.T. & T. which does not have a policy of reporting it to a law enforcement agency and that is Illinois Bell. They will not report any devices found to law enforcement.

Mr. MURPHY. They will not report them?

Mr. HERSHMAN. That is correct.

Mr. MURPHY. I find that very interesting.

Mr. HERSHMAN. This was brought up at hearings by the National Wiretap Commission in June. I believe Illinois Bell has since changed their policy.

Mr. MURPHY. I would like to ask the panel members if any of them are aware of the law which requires the telephone company to report these findings. Is there such a law?

Mr. HERSHMAN. I don't believe there is such a law, sir.

Mr. MURPHY. I would like to pursue this. The rest of the Bell subsidiaries are reporting and those in Chicago are not reporting. Do you have any personal knowledge of why they would not report?

Mr. HERSHMAN. It was a policy decision on the part of the executives of Illinois Bell.

Mr. MURPHY. Did they testify to that fact before your Commission?

Mr. HERSHMAN. Yes; we had executives of the mother company, A.T. & T., testify directly to that.

Mr. MURPHY. Wait a minute now. Was it the parent company or the subsidiary, Illinois Bell, that testified they would not provide that information?

Mr. HERSHMAN. The parent company testified that Illinois Bell was the only subsidiary.

Mr. MURPHY. Did you ask them why there was this difference?

Mr. HERSHMAN. Yes, I did.

Mr. MURPHY. What was their response?

Mr. HERSHMAN. They said it was a policy decision by executives of Illinois Bell and they did not agree with it.

Mr. MURPHY. Did they say they were working with the local district attorney or the local FBI or the local Drug Enforcement Agency in establishing that policy?

Mr. HERSHMAN. In all cases except for Illinois Bell they were doing that; yes.

Mr. MURPHY. Then really what we have at the bottom line is A.T. & T. and the Federal Government and its agencies, the FBI and DEA, engaging in wiretaps when they don't have a court order and it has nothing to do with national security, and they are in violation of the law. Is that not correct?

Mr. HERSHMAN. I am sorry, sir, I am not quite sure I understand your question.

Mr. MURPHY. If A.T. & T. knows about 1,500 taps throughout their system in a year and they report them to the FBI, how many convictions were there in connection with those 1,500 taps?

Mr. HERSHMAN. Of the 473 cases over an 8-year span that we could document having been received by the FBI, 27 cases resulted in arrest, indictment, or prosecution.

Mr. MURPHY. How many resulted in convictions?

Mr. HERSHMAN. From fiscal year 1969 to fiscal 1975 there were 114 cases brought by the Justice Department with regard to violations of the electric surveillance laws. Of those, there were 61 cases that resulted in conviction.

Mr. MURPHY. How many years' span is that?

Mr. HERSHMAN. Approximately a 7- to 8-year span.

Mr. MURPHY. Were all those cases that the telephone company says they came across reported to the FBI?

Mr. HERSHMAN. The telephone company claims they reported 610 of the 1,500 to the FBI. The majority of the remainder were reported to local prosecutors.

Mr. GIAIMO. The time of the gentleman has expired.

Mr. Treen from Louisiana is recognized.

Mr. TREEN. Thank you, Mr. Chairman.

Do I understand that Mr. Kraus from the FBI is going to testify later or not?

JAMES KRAUS, UNIT CHIEF, ANTITRUST AND BANKRUPTCY UNIT, FEDERAL BUREAU OF INVESTIGATION

Mr. KRAUS. Yes, sir.

Mr. GIAIMO. As I understand it he is here to answer questions. Do you have direct testimony?

Mr. KRAUS. No, sir.

Mr. GIAIMO. But you are available for questions.

Mr. TREEN. I have just one question first of Mr. Kaiser. You stated that there was a 30-percent markup on the equipment that you sold to U.S. Recording. How do you know that?

Mr. KAISER. I sat in the office, the Old Post Office Building, with the very gentleman that I had been negotiating another contract with and I saw the paperwork come in through U.S. Recording on his desk. I looked at the paperwork and compared the prices shown there—as a matter of fact I wrote them down—and compared the prices shown on their invoices versus what they would have been from me.

Mr. TREEN. You said you provided a lot of other agencies with equipment and these orders came through the U.S. Army. Would that include all the agencies you were talking about that you referred to earlier—the U.S. Postal Service, IRS, Treasury, and others? Did they all order their equipment through the Army?

Mr. KAISER. No. They all used a different procedure. I refer to them as cutouts. Occasionally, one agency would order through another.

Mr. TREEN. Have you supplied the names of these other agencies to the committee staff?

Mr. KAISER. All the agencies you have there. Just mix them all around. They all did the business of ordering for other agencies; not just Fort Holabird, but others.

Mr. TREEN. I am talking about where you had ostensibly a private company ordering, or where you had the Army ordering, equipment that you knew was destined for someone other than the Army. Have you supplied that information?

Mr. KAISER. Yes; I will supply the information to you.

Mr. TREEN. You will. OK.

Mr. Kraus, can you enlighten us a little bit, from the point of view of the FBI, about the method by which it acquires equipment? I assume none of this equipment that Mr. Kaiser manufactured here is illegal, per se, is it?

Mr. KAISER. It is electronic surveillance.

Mr. TREEN. It is not illegal to manufacture the equipment you have displayed today, is it?

Mr. KAISER. No.

Mr. TREEN. Under the law?

Mr. KAISER. Under the law.

Mr. TREEN. And it is not illegal for any of these Government agencies to possess it, per se—possession—is that correct?

Mr. KAISER. That is correct.

Mr. TREEN. Mr. Kraus, do you have any comments about the method by which the Federal Bureau of Investigation acquires this equipment? It has been alleged that the U.S. Recording Co. is an intermediary through which this equipment is acquired. Is this true, and if so, why is that done?

Mr. KRAUS. The acquisition of material, supplies, is handled by the Administrative Division of the FBI. I have never worked in the Administrative Division of the FBI, and I don't know the answer to your question.

Mr. TREEN. You have no information on this subject at all?

Mr. KRAUS. No, sir.

Mr. TREEN. Has that been supplied to the staff, Mr. Field—the FBI explanation as to why, if true, these intermediary agencies or organizations are used?

Mr. FIELD. It has not.

Mr. TREEN. Mr. Kraus, can that be supplied? Can you arrange to supply that to the committee, a statement of the reasons why, if true, intermediary organizations are used for the acquisition of this type of equipment?

Mr. KRAUS. I can't supply it.

Mr. TREEN. Can the Federal Bureau of Investigation supply it?

Mr. KRAUS. We will look into it, sir.

Mr. TREEN. I assume the committee will make a request.

Now, if I have some more time, Mr. Kaiser, you generally alleged that many of these other Government agencies order their equipment through the Army; that is, agencies that are not connected with the Army. Can you give me a specific example? You said the U.S. Postal Service had ordered some of your equipment. What kind of equipment did the Postal Service order, and how did you transmit it to the Postal Service?

Mr. KAISER. The Postal Service bought in many cases direct. I think most of their cases were direct. The most significant example I can think of, of an order that was routed through Army Intelligence, was one for the Bureau of Narcotics and Dangerous Drugs. That was the most sizable. It was roughly $70,000 or $80,000 from the Bureau of Narcotics to Fort Holabird to me. Again I delivered directly to Bureau of Narcotics but billed through Fort Holabird.

Mr. TREEN. You were paid by the Army?

Mr. KAISER. Yes.

Chairman PIKE. Mr. Dellums, do you want to use your time?

Mr. GIAIMO. Can I ask unanimous consent to yield my time to Mr. Dellums?

Chairman PIKE. Without objection, Mr. Dellums is recognized for 10 minutes.

Mr. DELLUMS. First of all, I would like to point out that I think the hearing today is extraordinarily important because it raises one of the most dangerous risks of uncontrolled intelligence-gathering capability. It may be that what we are listening to today is clear evidence that we have established an electronic horror story that renders the Bill of Rights null and void. In some ways I sit here and almost feel impotent as a Member of Congress on a tiny committee that may not even be backed up by the entire Congress. We are trying to go into an area from where we may not be able to come out.

I would like to pursue with Mr. Hershman and perhaps Mr. Farris this question. It spins off of the question raised by my distinguished colleague from Illinois. We have heard testimony this morning that various telephone companies around the country have participated, or have been involved, implicitly or explicitly, in illegal wiretaps. The question I would like to ask you is: If that is true and telephone companies have not reported all of these illegal wiretaps to the appropriate Federal, State, or local agencies, is it not a fact that perhaps indictments can be brought against telephone companies all over this country for criminal acts in violation of the Constitution and in violation of the rights of human beings in this country?

Mr. HERSHMAN. I think if, in fact, they have participated in illegal wiretapping, prosecutors could possibly obtain convictions, indictments, and so forth.

Mr. DELLUMS. Does your information indicate that it is clearly true that not all of the warrantless wiretaps that the telephone company is aware of, or perhaps even participated in, were reported to the appropriate authorities?

Mr. HERSHMAN. I think that the most glaring evidence of this is from the Illinois Bell System, where through their policy, they did not report findings of illegal devices to law enforcement.

I want to say that during the course of the National Wiretap Commission's business, we had many allegations that the telephone company had cooperated with law enforcement throughout the country in instituting illegal wiretaps or buggings. It has been the case, however, that we have only been able to document individual telephone company repairmen or linemen having cooperated, and in most of these instances that have come to light, they have been the subject of prosecution.

I believe that the instance discussed here today with regard to Houston is still under grand jury investigation. We will have to wait and see how that turns out.

Mr. DELLUMS. Thank you.

Mr. Chairman and members of the committee, I would like to share with you my own personal experience. A gentleman who was on leave from Maryland University at University of California at Berkeley came to my office at the request of my staff—a very sophisticated person with extraordinary credentials in electronic surveillance. He put equipment on the telephone lines of my own congressional office, found out and signed an affidavit saying that high frequency radio electronic surveillance equipment was on my telephone.

I am a Member of Congress, ostensibly capable of having some influence, and I say this to point out how the average citizen has to be totally wiped out in this process.

The best I could do as a Member of Congress—I reported it to one of the leaders of the House and was told we will hold a hearing and give you an opportunity to blast the fact there is a wiretap on your phone and maybe you can get a little press out of it.

I found that repugnant and repulsive.

What happens when thousands of American people are harmed by these wiretaps? There has been laughter in the Chamber today, but I don't find one damn thing funny about a nation, ostensibly democratic, that has created so much irresponsibility with Federal agencies involved; and we sit here and think that is a joke. I think what we have done today is open up Pandora's box, Mr. Chairman, and I hope this committee will go as far as it can go. I hope someday we get someone from the FBI here who can actually answer questions. This is the second time, Mr. Chairman, we have had some representative from the FBI who says, "I can't answer the question," or "maybe we can get this information for you."

I would like to know, because if we can ever open up this can of worms—the business that the FBI is involved in warrantless wiretaps and harassment of American people—maybe it would make all these things about the CIA look like kindergarten school.

I would like to ask the gentleman from the FBI: You have responsibility for investigations of violation of the criminal provisions of the 1968 Omnibus Crime Control and Safe Streets Act; that is correct, right?

Mr. KRAUS. Yes, sir, we have responsibility over title 47–605, title 18–2511 and 12. Title III is the law, as I understand it, that authorizes the legal use of wiretaps.

Mr. DELLUMS. That seems like a great deal of responsibility. How many staff people do you have in order to carry out your function?

Mr. KRAUS. In my unit?

Mr. DELLUMS. Yes.

Mr. KRAUS. I have two other supervisors and two clerks.

Mr. DELLUMS. To carry out all this business?

Mr. KRAUS. To carry out the business that is carried on in the Bankruptcy and Antitrust Unit in the Accounting and Fraud Section of the General Investigative Division.

We have currently pending 194 interception cases. The whole unit has somewhere in the neighborhood of 2,000 cases.

Mr. DELLUMS. Does that include Migratory Bird Act violations?

Mr. KRAUS. Yes, sir.

Mr. DELLUMS. So that means that of those four staff people, half of them are handling migratory bird violations and the other two are handling all of these important electronic surveillance cases?

Mr. KRAUS. I don't believe there is a single Migratory Bird Act case pending in the Bureau. But if there was such a case, it would be handled in the Bankruptcy and Antitrust Unit.

Mr. DELLUMS. Mr. Farris, what do you think about that?

Mr. FARRIS. I think that is pretty sad, Congressman. I agree that electronic surveillance is a necessary evil in certain types of investigations—national security, the crimes enumerated in the act—but I think

that even with safeguards, electronic surveillance is a dirty business.

To think that the only agency chartered by this Congress—and this is the only Congress we have—to investigate those violations has a small unit that has to worry about migratory birds and antitrust, and so forth, is pretty sad. That is what I think of it.

Mr. DELLUMS. Do you have a comment, Mr. Hershman?

Mr. HERSHMAN. I do. I think this is somewhat of a tragedy and probably goes a little bit further than the committee members are aware.

We had testimony from the gentleman responsible for title III violation prosecutions in the Justice Department. That unit consists of 4 lawyers and they are assigned to enforce violations of 10 other statutes.

I feel very strongly that there is a misplaced priority in the enforcement of laws that have to do with invasion of privacy. I take issue with Mr. Kaiser, who said earlier that the FBI does not have the technical capability to investigate crimes of electronic surveillance. I am well aware of the technical capability the FBI has, and I respect them for it. They have helped us at the Commission to formulate a study of the state of the art of electronic surveillance technology and did a wonderful job. The lack of technical capability to investigate these crimes is not the problem.

The problem is the motivation, the priority placement.

Mr. DELLUMS. Thank you.

Mr. Kraus, I have here an FBI memo from an FBI field office that clearly shows the FBI, in 1971, conducting an apparently warrantless electronic surveillance of a series of telephone calls. At the end of the memo, it puts one of the individuals monitored on a watch list for further surveillance.

I have a 1970 memo which shows investigative data clearly obtained from Bell Telephone Co., and I have data, which shows: "American Telephone & Telegraph. Total American Telephone & Telegraph security personnel, 656; total FBI experience, 45; total local experience, 31; total State experience, 18; percent of FBI agents in security personnel, 6.8. Southwestern Bell, total of 40 agents; total number of former FBI agents, 16; the percent in location, 40 percent."

Will you describe the full relationship between the FBI and the Bell Telephone Co. and I.T. & T.; the full relationship between the FBI and the telephone company?

[The data referred to above by Mr. Dellums are printed on pp. 112–1122 of the appendixes.]

It seems to me that given this testimony, there has to be some kind of relationship that is more than casual between the FBI and the telephone company, and I would like to elicit that information.

Mr. KRAUS. I am not sure I understand what kind of relationship you are speaking of.

Mr. DELLUMS. The relationship that allows the FBI to tap telephones with the cooperation of the telephone company, to allow the FBI to use the services of the telephone company in order to impose electronic surveillance on American citizens.

Mr. KRAUS. Mr. Dellums, I am not aware of any relationship between the Bureau and ITT, ATT, or any of its subsidiaries to permit the FBI to install illegal wiretaps.

Mr. DELLUMS. Is it your testimony——

Chairman PIKE. The time of the gentleman has expired.

We have a vote. I would suggest this would be an appropriate time for us to break for another 15 minutes.

It is the intention of the Chair to go through the members without breaking for lunch and then wrap up the hearing and not come back this afternoon.

[Brief recess for voting.]

Chairman PIKE. Mr. Hayes, you may question.

Mr. HAYES. Thank you, Mr. Chairman. Mr. Kraus, good morning.

Mr. KRAUS. Good morning.

Mr. HAYES. Does the FBI have a stated or unstated policy not to enforce those Federal statutes which have to do with wiretapping and interception of communications, to your knowledge?

Mr. KRAUS. No, sir.

Mr. HAYES. Have there ever been policy discussions in your presence—because of your jurisdictional authority with the FBI—about the efficacy of enforcement practices within the Bureau, of those same laws?

Mr. KRAUS. No, sir.

Mr. HAYES. Has any one of your superiors or peers within the Bureau ever discussed with you what is going on in terms of enforcement within your division of those statutes?

Mr. KRAUS. We have joint discussions; yes, sir.

Mr. HAYES. Now, about those joint discussions: Can you recall when the last one was conducted?

Mr. KRAUS. We discussed interception of communications yesterday. We discussed them this morning.

Mr. HAYES. Now, in the discussion yesterday, did you get beyond what your role would be vis-a-vis this committee?

Mr. KRAUS. Beyond?

Mr. HAYES. Yes; did you discuss the 18 convictions that you had in 1974? Did you discuss, for example, how effective your division has been in enforcing the statutes? Did you discuss anything of that nature?

Mr. KRAUS. Not of that nature. Yesterday our discussion concerned my interview with two members of this committee staff on Tuesday, and I discussed with them what the questions were that I could remember, and I especially discussed with them the fact that—not especially, but included in it was the fact that they asked me certain statistical questions that I didn't have the answers to, and I told the members that it would be possible to get this information by a review of the files concerned. They would have to identify them.

Mr. HAYES. In law enforcement matters, would you characterize the FBI's ability to cooperate with the various telephone companies as good, bad, or indifferent? Would you characterize them in one of those three ways?

Mr. KRAUS. I would say good.

Mr. HAYES. Now in terms of that, how would you characterize the FBI's capacity to cooperate in enforcing the Federal wiretap laws with those same companies? Would you characterize those as good, bad, or indifferent.

Mr. KRAUS. Our capacity to enforce the law?

Mr. HAYES. To cooperate with the telephone company. You have 18 convictions, but they reported, I believe the gentleman testified to, about 200 taps over the last year.

Mr. KRAUS. Well, as you are aware, Mr. Hayes, the FBI doesn't prosecute. We investigate.

Mr. HAYES. I am saying, you investigate——

Mr. KRAUS. And the results of all our investigations are given to the appropriate U.S. attorney and also the Criminal Division in the Department of Justice.

Mr. HAYES. How many local police departments did you inform U.S. attorneys about in terms of their wiretapping?

Mr. KRAUS. I believe we furnished that information to this committee this month, and while I——

Mr. HAYES. I will look it up.

Mr. KRAUS [continuing]. I didn't prepare it, I believe there were about 50 cases during, I believe it was from the period from 1970 or 1971 to 1975, but I am not sure of this. It was a period of 4 years, I believe, 5 years.

Mr. HAYES. What actions have you had personal knowledge of in regard to the Law Enforcement Assistance Agency grants to local police departments for the purchase of electronic surveillance equipment or wiretapping equipment?

Mr. KRAUS. I don't have any personal knowledge of it. I am aware from reading of it in the newspapers and in discussions that the LEAA does give grants and these grants are used for the purchase of these devices.

Mr. HAYES. Mr. Hershman, in regard to the same question that I asked Mr. Kraus, do you have a comment?

Mr. HERSHMAN. Sir, at the National Wiretap Commission, we initiated a program to examine the sales records of 10 manufacturers of electronic surveillance equipment in the United States. Upon examining the records we found that in virtually all States there were sales of electronic surveillance equipment to State and local law enforcement, including those States which do not have authorization statutes.

I believe there are currently 22 States in the country which permit court-authorized wiretaps. Of the rest they had purchased equipment which reasonably could be assumed to be purposeful only in the surreptitious interception of wire and all communications.

During testimony from a number of manfacturers we found that perhaps 60 to 75 percent of their sales are through funds provided by LEAA or the various State funding agencies.

Mr. HAYES. Sixty to 75 percent?

Mr. HERSHMAN. That is correct, sir.

Chairman PIKE. The time of the gentleman has expired. Mr. Kasten?

Mr. KASTEN. Thank you, Mr. Chairman.

We received information and evidence this morning about the activities in Houston. In what other cities are the local police presently working with Government surveillance of different kinds?

What other situations do we have that would be like Houston, to your knowledge.

Mr. HERSHMAN. The most notable situation outside of Houston is in New York, where a subsantial number of officers in the special investigations unit of the New York City Police Department, narcotics division, have been convicted of crimes relating to wiretapping.

The special investigations unit consisted of approximately 80 detectives, and I believe since its inception, a number of years ago, more than half of those detectives have been convicted.

Mr. KASTEN. Are those in relationship to local police doing the wiretap or the Federal Government doing the wiretap?

Mr. HERSHMAN. In relation to the local police doing it.

Mr. KASTEN. What about other cities? I would like a list. Would Richmond be an example? Would McKeesport, Pa., be an example?

Mr. HERSHMAN. We may be talking about two different things. If the question has to do with FBI enforcement of the electronics surveillance laws regarding illegal police wiretapping, Richmond is a current investigation where I believe FBI agents on active duty are subject of a grand jury investigation stemming from charges of obstruction of justice.

Mr. KASTEN. In prior testimony before this committee in one of our initial hearings, we had Eugene W. Walsh, the Assistant Director of the Administrative Division of the FBI.

Are you familiar with Mr. Walsh and what he does?

Mr. KRAUS. Yes, sir; I do know Walsh.

Mr. KASTEN. I asked Mr. Walsh a question: "Do you use State and local police to collect intelligence specifically for wiretapping or surveillance?" On that day before this committee Mr. Walsh answered, "No, sir, not to my knowledge."

In another point going further on, talking about cooperation, I asked about work that takes place in State and local government—coordinating with the FBI, in some cases wiretapping, et cetera: "Mr. Walsh: No, sir, we have no cooperative effort to get local police to place wiretaps in our behalf."

How do you explain Mr. Walsh's testimony, that statement, "No, sir, we have no cooperative effort to get local police to place wiretaps in our behalf."

We have Houston and other examples right here.

Mr. KRAUS. Mr. Kasten, I can't explain the answers you are talking about, but may I explain this? I was interviewed by two members of your staff, and I explained to them what my position was—that I was in charge of a unit in the Accounting and Fraud Section and in that unit we also handled, in addition to some other 2,000 investigations, the interception of communications statutes.

I also explained to them that I was not involved in policymaking. I do not make policy. And so in answer to your question, I don't know the answer.

Mr. KASTEN. Is there another part of the agency that is responsible for the interception of communications statutes?

Mr. KRAUS. No, sir.

Mr. KASTEN. There is no other person who should have this responsibility?

Mr. KRAUS. The overall responsibility would rest with our Assistant Director, who is in charge of the General Investigative Division, and he is in a position to be involved in the setting of policy.

Mr. KASTEN. Neither you nor Mr. Walsh, who is an Assistant Director, would have the knowledge that the committee is addressing itself to?

Mr. KRAUS. No, sir; I don't have the answer to that question.

We offered to make available to this committee this morning someone else in the Bureau who would be at a policymaking level, and the committee requested that I show up.

Mr. KASTEN. Mr. Kaiser, in your testimony you said your list of clients is not limited to but includes, CIA, DIA, Army Intelligence, et cetera. There were a number of domestic agencies other than the FBI in your list.

What specifically does the Treasury Department—the IRS—do with your equipment?

Mr. KAISER. My only requirement is that I receive a purchase order from the bona fide law enforcement agency. That is the only requirement I have, and once I ship the goods, I have absolutely no idea what they do with it—absolutely none.

Mr. KASTEN. Thank you, Mr. Chairman.

Chairman PIKE. The time of the gentleman has expired.

Before we broke for the recess, Mr. Aspin asked unanimous consent that he could yield his time to Mr. Murphy. Is there objection?

Without objection, Mr. Murphy is recognized for 10 minutes.

Mr. MURPHY. Thank you, Mr. Chairman.

Mr. Zavala, in your experience as a police officer in Houston, were you requested by other Federal agencies, namely the DEA and the FBI, to cooperate in wiretapping operations?

Mr. ZAVALA. No, sir; I was never officially—there was never a request from anyone officially to instigate a wiretap.

Mr. MURPHY. Did you ever turn over information?

Mr. ZAVALA. Yes; I did.

Mr. MURPHY. Did they object?

Mr. ZAVALA. No; they didn't.

Mr. MURPHY. Did they stop you in any way from giving them that information?

Mr. ZAVALA. No; they didn't stop me. It was encouraged because they knew it was correct information.

Mr. MURPHY. How was it encouraged?

Mr. ZAVALA. Well, by asking more questions, by hanging around the station asking if anybody was working on so and so. When we gave information—for example, a case that I gave a Customs man information in Brownsville—I believe they arrested the man—I was given a 3-day subpena to Brownsville, where I had no testimony at all to give in the case and the Federal Government was paying me up there to go have a little vacation for giving him the information, you might say. It was sort of like a reward.

Mr. MURPHY. And you gave no testimony up there?

Mr. ZAVALA. No, sir, I did not. Later on, the U.S. attorney, now assistant U.S. attorney, in Houston, asked me why I had been subpenaed, and I asked him, "Well, why did you subpena me?" And he said, "Well, I don't remember." I said it was because I gave the Customs man the information that made the case down in Brownsville.

Mr. MURPHY. Were you present at that trial in that case?

Mr. ZAVALA. Yes, sir; I was.

Mr. MURPHY. Did the prosecutor introduce evidence that was obtained from your wiretaps?

Mr. ZAVALA. No, sir. The prosecutor didn't know. There was no case. The man pled guilty.

Mr. MURPHY. You said the prosecutor didn't know. Did the FBI agents testify on the information that you received from wiretaps?

Mr. ZAVALA. No, sir; no one testified at the trial. When the trial was about to start, the man pled guilty. However, the customs people knew that it was a wiretap because I had supplied the information to them. There was no actual testimony by anyone involved because the man pled guilty.

Mr. MURPHY. Were you present at any pretrial conversations or hearings where the evidence you obtained illegally was presented to the attorney for the defendant and the defendant?

Mr. ZAVALA. No, sir; I was not present at that.

Mr. MURPHY. Mr. Farris, in your experiences as the U.S. attorney, do you know that it is a common practice for the FBI or DEA to use local law enforcement officers or their facilities to wiretap in jurisdictions?

Mr. FARRIS. I do not know as a personal fact that it is, but certainly beginning with 1973, late 1973, those were the rumors in Houston, and this is part of the testimony that I have given before two other committees and this one.

Mr. MURPHY. You know of no specific instance?

Mr. FARRIS. Not specific instances; no, sir; only the allegations by defense counsel and the information supplied to us by the former chief of police in Houston, Carroll Lynn.

Mr. MURPHY. As a practical practicing attorney and somebody who knows the town pretty well, you know it to be the case that the FBI uses local law enforcement officials to obtain the information illegally and then they can say they never wiretap; isn't that correct?

Mr. FARRIS. I can't say that as a fact——

Mr. MURPHY. Where is all this equipment that this gentleman makes and sells? Where does it go? He was asked a question, what do they do with it. What else can they do with it but use it for the purpose for which it was manufactured.

Let's quit kidding ourselves and the American people. We know there is illegal wiretapping going on. There is one man here who is going to go to prison next week for it.

Mr. FARRIS. Your question was whether I personally knew and I do not personally know. I know the allegations were there.

Mr. MURPHY. Have you ever heard it discussed around your office, as U.S. attorney, among the assistant attorneys or the agents working on the case?

Mr. FARRIS. I heard the allegations repeated; yes, sir. And I supplied——

Mr. MURPHY. You know of Federal cases that have been thrown out because of tainted evidence; isn't that correct?

Mr. FARRIS. I know of no Federal cases in the southern district that were thrown out when I was in office because of tainted evidence; no, sir.

Mr. MURPHY. How about you, Mr. Kraus? Do you know this to be a practice of the FBI in any jurisdiction throughout the country—

they work with local enforcement agencies and have them do the wiretapping?

Mr. KRAUS. No, sir.

Mr. MURPHY. Do you know of any instances where the FBI works closely with the American Telephone & Telegraph Co. or any of its subsidiaries to obtain illegal evidence?

Mr. KRAUS. No, sir.

Mr. MURPHY. Do you know anybody in the FBI who might know of that? Can you supply his name so we can call him?

Mr. KRAUS. No, sir. No, I don't.

Mr. KASTEN. Would the gentleman yield?

Mr. MURPHY. Yes.

Mr. KASTEN. Who in the FBI would have that information? Who would answer that question? What is the person's name who could answer the question that the gentleman from Illinois just addressed?

Mr. KRAUS. I don't know that the question is a question of fact. I think it is a presumption. I don't think that there is anybody in the FBI who has knowledge of illegal wiretapping on the part of the FBI or who works in conjunction with the telephone company or any police agency to install illegal wiretaps or condones it.

Mr. KASTEN. So if it was going on, there would be no one in the FBI who would know?

Mr. KRAUS. No, sir. It is as much a violation of the Federal law for an FBI agent to engage in illegal wiretapping as any other citizens.

Mr. KASTEN. I thank the gentleman for yielding.

Mr. MURPHY. Have they ever, in the history of the FBI, engaged in it, to your knowledge?

Mr. KRAUS. Not to my knowledge.

Mr. MURPHY. Do you know of any Federal cases thrown out because of tainted evidence obtained through illegal wiretapping?

Mr. KRAUS. No; I don't.

Mr. MURPHY. I think my time is up, Mr. Chairman.

Chairman PIKE. Mr. Lehman, do you have any questions.

Mr. LEHMAN. Thank you, Mr. Chairman.

I guess I will address my questions to Mr. Kaiser. We have talked a lot about the abuses and the illegalities of surveillance, wiretapping, law enforcement agents, FBI, or the telephone companies; but in title 47, section 605, of the statutes on wire and radio communication, and in your testimony, it seems like many of your competitors are in direct violation of this by just the sale and distribution of this kind of communication equipment—which, as you say, are advertised in catalogs.

What concerns me is this great proliferation in the private sector of this sophisticated equipment. I saw the movie, "Conversation"—I guess some of you might have seen that—and it shows just how prevalent and how sophisticated and how dangerous this is, not just in the police area but in the private sector. I think that is what we are going to have to do—make the rank and file people concerned about it.

It is illegal, in my way of thinking, to send and sell this equipment in the private sector.

From your information, do you know of situations where this equipment has been sold in the private sector? Are there persons in the private business area who conduct electronic surveillance on a competitor, employee, or even labor organizations? Would you care to comment on the prevalence and availability of this equipment where

we have one private sector versus another private sector, or one private citizen versus another private citizen?

Mr. KAISER. I view private sector as not only individuals, but also companies and organizations and that type. I don't know about abuses, one against the other, and where the source is.

I, myself, do countermeasure work and have done work—not only for the law enforcement agencies and various States' attorneys and Governors in particular, but for corporations; and the type of thing I am finding doesn't even involve a device. It involves a modification of an already existing eavesdropping device. So the "whodunnit" there is almost impossible to find out.

Mr. LEHMAN. The average citizen is not that concerned about the relationship between the law enforcement agency and himself, because he is a law-abiding citizen. But, take a person that is on a checkout counter of a supermarket. What kind of devices can be planted there so that the market manager will see that relatives aren't getting stuff through the checkout counter free? What is available for automobile agencies so that one automobile agency can find out what his competitors discounted 1976 models for?

What can be done in regard to a shipping clerk that some employee can bug to determine whether he is letting stuff out the back side of the warehouse?

What is available? How are these being used? What is this sort of civil war, where one segment of the private sector is against the other through the use of electronic surveillance weapons?

That is what I think I am most concerned about—as much as I am about the abuses in the law enforcement area.

Could you give me any insight to the kind of legislation we need, or kind of enforcement of present laws that will prevent these kinds of abuses and this kind of invasion of privacy?

Mr. KAISER. That is a mighty big order.

Mr. LEHMAN. Is it an important problem?

Mr. KAISER. I think it is a very, very important problem.

Mr. LEHMAN. Equivalent even to the problem of the law enforcement agencies, perhaps?

Mr. KAISER. Possibly even beyond that point.

Mr. LEHMAN. That is what I was trying to get to.

Mr. KAISER. I have really enjoyed this game I have been in for the last 10 years, and have tried to define this myself; and I find it coming right down to the basic things that we call morals and that we call ethics, and I honestly don't know how to legislate this.

I have turned, of course, to the Justice Department for answers to this, and they can't give me an answer.

Mr. LEHMAN. Could I ask Mr. Farris to respond to this?

Mr. FARRIS. Congressman, as you know, I testified before Mr. Hershman's group—the National Wiretap Commission—and I pointed out that a Federal judge in California has already held that a department store that conducted electronic surveillance of one of its employees without his consent was not violating the law under the present act as written by Congress.

You can ride in elevators in certain condominiums and certain office buildings where the elevator is wired so that the people that run the elevator can hear what you are saying—all under the present act.

Mr. LEHMAN. In that case, do you——

Chairman PIKE. The time of the gentleman has expired.

Mr. Johnson?

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. Farris, what is the relationship between the U.S. attorney and the FBI, generally?

Mr. FARRIS. In any district?

Mr. JOHNSON. Yes; well, in your district—specifically the one you used to run.

Mr. FARRIS. Except for the agent in charge who retired in 1974, good.

Mr. JOHNSON. I wasn't asking the question that way. I phrased my question poorly.

When you, as the U.S. attorney, asked the FBI to investigate a matter, for example, bank robbery or car theft—I guess that is their big thing—or hijacking, or something like that, what was the response you got? What kind of cooperation did you get?

Mr. FARRIS. Excellent.

Mr. JOHNSON. Isn't that generally the way it is?

Mr. FARRIS. That is correct.

Mr. JOHNSON. I was a district attorney in the State of Colorado for several years, and if I made a request for investigative work, we also got good cooperation from wherever we were asking it from the law enforcement agents.

As a prosecuting attorney, you expect that, don't you?

Mr. FARRIS. That is correct.

Mr. JOHNSON. You have been in practice since 1956. I assume you have been a defense counsel in criminal matters and one of the things you always are irritated with is the prosecuting attorney has so much help from various law enforcement officials; right?

Mr. FARRIS. Right.

Mr. JOHNSON. Can you tell me why in this case, when you requested information with respect to investigation of other law enforcement agencies—in this case the Houston Police Department—you didn't get any response from anybody who was of real significance?

Mr. FARRIS. Actually, there were two cases in which I got little or no response. The other one involved vote stealing—same SAC. In all other cases they always responded; they always performed admirably; but in this case—the investigation of the allegations of illegal electronic surveillance by the police department in Houston—there was not only reluctance but obvious foot dragging.

Mr. JOHNSON. You testified that during the course of over a year's period of time, you contacted the SAC and his superiors and the Justice Department, and it seems to me very pointed in your testimony that it is all left hanging.

What was the result of your contacts with Saxbe and Kelley and the others?

Mr. FARRIS. To quote myself in other hearings, zip; nothing. Saxbe didn't answer; the Deputy Attorney General of the United States didn't answer; the Assistant Attorney General in charge of the division didn't answer. The Chief of the General Crime Section didn't answer. No one answered. I don't think they were listening.

Mr. JOHNSON. Did you prosecute Mr. Zavala?

Mr. FARRIS. One of my assistants did.

Mr. JOHNSON. Without knowing any more about the case, it is very difficult to comment on it; but it seems to me unusual to hear that a man who had cooperated with the investigative authorities gets a sentence of 3 years out of a maximum possible sentence of 5, when he is one of those who is helping to break the case and helping the prosecutors' investigate. That is kind of unusual, I would say. Wouldn't you characterize it that way?

Mr. FARRIS. I don't know what the policy is in the U.S. attorney's office in Houston now, but when I was there, and before me, the Federal judges in the Southern District of Texas did not want and would not accept recommendations on sentencing from the U.S. attorney's office. That is the policy, and it was enunciated by Chief Judge Ben C. Connally in a case— a written opinion.

I don't know what has happened since I left office in December 1974. I don't know what the story was in Mr. Zavala's case. But when I was there for 6 years, and prior to that, we had no voice in sentencing. We had no voice in telling the judge outright in open court that someone had cooperated or had not.

Mr. JOHNSON. Are you familiar with the allegations of Mr. Zavala? You were familiar with them, as I understand it, during your period of time in office.

Mr. FARRIS. Yes, sir.

Mr. JOHNSON. It seems to me that this man is going to jail for what his superiors—if his testimony is correct—ordered, and his superiors have not been tried or prosecuted as far as I am aware.

What is the nature of the facts?

Mr. FARRIS. I can't comment because, as you know, the Federal grand jury in Houston is still investigating the matter of his superiors in the police department and others.

Mr. JOHNSON. Did they get any cooperation from the FBI, in terms of the investigation of the allegations, that FBI officials were aware of the violations?

Mr. FARRIS. Congressman Johnson, I don't know what has happened in that respect since December of 1974. I don't know whether they are getting cooperation or not.

Mr. JOHNSON. But you characterize the cooperation they received prior to that time as "zip."

Mr. FARRIS. It is not worthy of the name investigation; yes, sir.

Mr. JOHNSON. Once again, this is inconsistent with their response to other requests that you might make for other investigations?

Mr. FARRIS. That is correct.

Mr. JOHNSON. I see my time is up.

Chairman PIKE. The time of the gentleman has expired. Mr. Field?

Mr. FIELD. Thank you, Mr. Chairman.

Mr. Kraus, there seems to have been some discussion as to why you are here, and I would like to perhaps address that with you. I was the one who asked you to appear today. I expect if policy people had been here, they would tell us things were going pretty well in your department, and I wanted to ask you some questions about how they actually are going.

Do you know, approximately, the total number of investigations the FBI does in the course of the year?

Mr. KRAUS. We have 53,000 cases pending right now.

Mr. FIELD. Our figures indicate there are some 200,000 cases that are investigated—not cases that are pending; 200,000 investigations undertaken by the FBI.

Mr. KRAUS. I didn't hear you.

Mr. FIELD. We have figures there are some 200,000 investigations, not cases. But my point is on something else: In connection with the many thousands of annual investigations by the FBI, on illegal eavesdropping or wiretapping, how many does your unit undertake?

Mr. KRAUS. Per year. In fiscal year 1974 we received 701—I hope you won't hold me to this—701 cases of illegal electronic surveillance cases, IOC cases, interception of communications cases.

Mr. FIELD. You mean complaints?

Mr. KRAUS. Complaints and we opened cases on them; and in accordance with our policy, when we get a case that is a well-rounded complaint, we take it to the U.S. attorney.

At that point, the U.S. attorney's office may request a preliminary investigation. He may request that no investigation be conducted because he considers that it is not worthy of investigation or that it is not a crime and there would be no purpose in going forward with it or in attempting litigation.

If he requests a preliminary investigation, we conduct that investigation and the results of it——

Mr. FIELD. How many investigations are you conducting now? That is my point. We have a figure of 194.

Mr. KRAUS. We had pending, as of the end of August this year, 194 IOC cases.

Mr. FIELD. I understand the FBI has about 16,000 convictions a year on cases they investigate. How many interception of communication convictions were there last year?

Mr. KRAUS. In fiscal 1975 we had 25.

Mr. FIELD. I have figures here that were two for illegal advertising in the last 6 months. Is that correct? These are figures from the Justice Department.

Mr. KRAUS. We don't keep those statistics, but yesterday I caused a review of those files that had convictions to determine, if I could, which of them were for which specific violation. We had one conviction for violation of section 2512. That would be the manufacture, advertising, possession——

Mr. FIELD. You had one conviction last year for illegal advertising of these products?

Mr. KRAUS. For section 2512.

Mr. FIELD. Mr. Kaiser, do you turn over complaints to the FBI? Do you ever tell them about illegal advertising you come across, and if so, how frequently do you do that?

Mr. KAISER. Naturally as a manufacturer and businessman I will turn in anything I consider illegal competition. The answer is yes.

Mr. FIELD. How often have you done that?

Mr. KAISER. From the period of 1968 to 1973, roughly about 25 in total.

Mr. FIELD. So you have turned over to the FBI 25 examples of what you considered to be fairly clear illegal advertising. Now, Mr. Kraus, you had one conviction last year?

Mr. KRAUS. Yes, sir.

Mr. FIELD. Have you seen the advertisements that Mr. Kaiser brought with him and have you seen the advertisement entitled "FBI Surveillance Outfit"?

Mr. KRAUS. I don't know whether I have or not.

Mr. FIELD. Can you take a quick look at the types of advertisements he has there, and if he could find the "FBI Surveillance Outfit" would you look at that?

Mr. KRAUS. We have looked into cases and investigated cases concerning illegal advertising including advertising in the telephone directories. Those cases are also investigated in accordance with our policy and in accordance with our mandate to investigate these violations. They are discussed and the results are given to the U.S. attorney and to the Department of Justice.

Mr. FIELD. Mr. Kraus, we have hundreds of pages of these advertisements and yet last year only two cases were filed for illegal advertising of wiretap and surveillance equipment. Why? Was it just that you did not investigate the others or that you could not find these advertisements or couldn't trace them down? My question to you is: Although you are not at a policy level you had the responsibility for doing this; why were not more of those advertisements investigated and the facts brought forward which would bring a case?

Mr. KRAUS. The one case you are speaking of is a conviction.

Mr. FIELD. That is good.

Mr. KRAUS. Why was there only one conviction? Is that the question?

Mr. FIELD. Out of the hundreds of companies advertising this year, why only one?

Mr. KRAUS. I don't think I know the answer to your question.

Mr. FIELD. Have you seen these ads?

Mr. KRAUS. I have seen some; yes. We have investigated some. We have sent the advertisements to our laboratory for analysis. The law states that the device must be primarily useful for surreptitious interception of communications.

Now, this microphone is capable of intercepting my communications, but I don't think it is an illegal device. But if I put this microphone in my tie clip and conceal it, then it would become, in my estimation, an illegal device and it would be something we would be obliged to investigate.

Chairman PIKE. Before the hearing ends, I would ask all of the witnesses if they would respond to any additional questions which members might wish to submit.

I just want to say in closing this particular hearing that it is a rather unique situation to find on one end of the table a man about to go to jail for 3 years who has been convicted of wiretapping and who did, as Mr. Johnson pointed out, apparently cooperate with the officials in revealing rather widespread wiretapping in his area—or at least allegations of widespread wiretapping. And at the other end of the table, we have a representative of the FBI.

I think that it does, if nothing else, show that there are risks involved in our intelligence-gathering operations—perhaps greatly underestimated in the past as far as the average citizen in the United States of America is concerned.

I want to advise the members of the committee that there has been an allegation of a leak of highly sensitive material from this com-

mittee. We are going to get a lot of allegations of leaks from this committee. I don't believe there are leaks from this committee. I simply say to you that after the recess we are going to go into some very sensitive matters and I ask you not to discuss them during the recess.

Mr. Dellums?

Mr. DELLUMS. One quick question, Mr. Chairman. I characterized the contact of the DEA agents with Mr. Zavala from my previous information as if they had very specifically moved to contact him. But I understand that it was a much more casual meeting than that.

Mr. GREENE. I think I can explain that. I have another client who is another police officer and who knows a great deal about this. This is the third year of the investigation. They contacted not me but him at his home and wanted to come out and see him. He called me and I said "Well, we will not have anything of that kind at this late stage. You bring those guys to my office." Yesterday—no, the day before yesterday—at noon they appeared at my office and met Carlos Avila. I had Tony come in and we were kind of surprised they were there.

Mr. DELLUMS. I wanted the report to reflect that.

Chairman PIKE. The committee will stand in recess subject to the call of the Chair. It is my expectation that we will meet 1 week from Tuesday in executive session.

[Whereupon, at 12:40 p.m. the committee was recessed, to reconvene at the call of the Chair.]

THE DRUG ENFORCEMENT ADMINISTRATION'S DOMESTIC AND INTERNATIONAL INTELLIGENCE PROGRAMS

THURSDAY, NOVEMBER 13, 1975

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C.

The committee met, pursuant to notice, at 10:10 a.m., in room 2118, Rayburn House Office Building, the Honorable Otis G. Pike [chairman], presiding.

Present: Representatives Pike, Giaimo, Stanton, Dellums, Murphy, Aspin, Milford, Hayes, Lehman, McClory, Treen, Johnson, and Kasten.

Also present: A. Searle Field, staff director; Aaron B. Donner, general counsel; James B. F. Oliphant counsel; John M. Atkisson, counsel.

Chairman PIKE. Our witnesses this morning will be Mr. Jerry Jenson, the Deputy Administrator of the Drug Enforcement Agency; Mr. Vernon Acree, the Commissioner of the U.S. Bureau of Customs; and Dr. Mark Moore, who was formerly Chief of DEA's Office of Planning and Evaluation and who regrettably is now at Harvard.

It is my understanding that you all have prepared statements, and what I am going to suggest to the members of the committee is that we let all of the gentlemen finish their prepared statements before we have any questions. I would also suggest to the members of the committee that they look in their backup book at the report of the General Accounting Office on this general subject—particularly at those portions which have been classified and try to figure out why they have been classified.

STATEMENT OF JERRY N. JENSON, DEPUTY ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION, ACCOMPANIED BY JOHN WARNER, CHIEF, INTERNATIONAL INTELLIGENCE; PHIL SMITH, CHIEF, DOMESTIC INTELLIGENCE; DANIEL P. CASEY, ACTING ASSISTANT ADMINISTRATOR FOR INTELLIGENCE; MARTIN PERA, CHIEF, DOMESTIC INVESTIGATIONS DIVISION; AND DONALD MILLER, CHIEF COUNSEL

Mr. JENSON. Thank you, Mr. Chairman. As you have indicated, I am Deputy Administrator of the Drug Enforcement Administration, a position I have held since April of this year. Prior to that time, my last assignment was as regional director of the Chicago regional office,

and my experience in drug law enforcement extends almost 18 years to the former Bureau of Narcotics.

Probably no other activity in the history of Federal drug enforcement has generated as much interest as our expanded drug intelligence capability. For this reason, Mr. Chairman, I would like to outline for you some important milestones and characteristics of our intelligence within the Drug Enforcement Administration in an effort to provide you and the committee a perspective of our problems and what we have done.

The Federal drug intelligence program at DEA began substantially before Reorganization Plan No. 2 of 1973, which established DEA and the incorporation into DEA of the Office of National Narcotics Intelligence. That plan formalized developments which really began with the intelligence staff of its predecessor agency, specifically, the Bureau of Narcotics and Dangerous Drugs. That organization demonstrated the value of having a specific organizational unit to collect and disseminate intelligence by establishing the Strategic Intelligence Office of that organization. This Office produced meaningful strategic intelligence, but perhaps its greatest contribution was the heightened awareness it brought to the Federal enforcement community that a formalized intelligence capability with greater manpower and fiscal resources was needed before the benefits of systematic intelligence could be delivered to rank and file enforcement personnel.

The greatest gap to be filled was in the area of operational intelligence analysis and production. This is aimed at the discovery and neutralization of specific narcotic traffickers but its volume precluded meaningful ad hoc production.

The application of the intelligence process to law enforcement was a relatively new technique which is just reaching full potential in the area of drug control. While drug intelligence was collected daily by many law enforcement agencies, the full concept of systematic intelligence collection, collation, analysis, and dissemination had not been implemented until the creation of the DEA Office of Intelligence. Drug intelligence is information to support and complement drug enforcement by providing investigators with a full picture of the drug traffic and the persons or groups involved. Drug intelligence, in and of itself, does not reach its full potential until it can be converted into positive action so as to interdict the drug traffic. Thus, drug intelligence must be translated into actionable intelligence on a timely basis.

In July of 1973, Reorganization Plan No. 2 established DEA and gave it the organizational resources and missions of the Office of National Narcotics Intelligence and of the Bureau of Narcotics and Dangerous Drugs as the raw material from which DEA was to strengthen a narcotics intelligence capability at the Federal level.

However, the opportunity to strengthen such a capability brought with it a full measure of difficulties. First of all, DEA had to expand the entire concept of the intelligence role within the drug law enforcement effort. The roles of the Cabinet Committee on International Narcotics Control, CCINC, needed clarification. The previous charter of the Office of National Narcotic Intelligence was somewhat vague and required specific definition. The Central Intelligence Agency plays a vital role in the overseas collection of intelligence dealing with international narcotics trafficking. The work of that Agency also had

to be fully coordinated with our own expanded intelligence-gathering capability and activity, and that data it furnished had to be adapted to our unique requirements, that is, the information may ultimately end up as a pertinent evidentiary matter in a court of law.

Probably the most fundamental accomplishments of the Office of Intelligence have been in the area of data base design for intelligence purposes; analyst/agent training in intelligence processes and methodologies for production; network analyses against major drug dealers; programs designed to provide State surveys and establishment of the El Paso Intelligence Center, commonly known as EPIC.

As you know, EPIC is the focal point for all intelligence on illicit drug operations in the 1,900-mile United States/Mexican border. Although not yet up to its authorized DEA/INS strength, this unique facility is off to a good start. It is developing a manual data base which is compatible with the planned computerized system, called Pathfinder. In 1 month alone, it added 2,800 names of individuals, aircraft, and boats directly involved in illegal drug traffic. It is responding to about 350 requests for support each week and is becoming nationally known as evidenced by queries from among other States: New Jersey, Vermont, Michigan, Ohio, Kansas, Washington State, Louisiana, and Florida.

Our new automated systems include the air intelligence program, established in conjunction with the Federal Aviation Administration. This system includes data on pilots, aircraft owners, airports and airport operators known or suspected of involvement in illicit drug trafficking. The first phase of our system will provide DEA with an all-source data base of illicit drug activity of specific interest to it.

A good, serviceable data base has always been a problem for drug enforcement. Existing drug agency files contain over 40 years of information. These files were created and are used for criminal investigation and prosecution and are oriented toward individuals. The need to continue this type filing has been well established. There is, however, a concurrent need for a data base with information of intelligence value, such as topical or general subject files. This type data would then provide the intelligence analyst a base from which to work.

Thus, the first and most essential part of the DEA intelligence program comes into focus—the data base. In order to be meaningful to the agent in the field, as well as the supervisor or headquarters coordinator, the data base must be complete, timely, and accessible. Our planning envisions an online computer and data base, directly accessible from all DEA field or headquarters offices, which will provide a complete background on individual subjects or groups, including the latest information on associates, methods of operation and vulnerabilities. We have now designed such a data base—the practicality of the system has already been established.

From its start, the Office of Intelligence has developed into one of the major contributors to carrying out the DEA mission. Intelligence is now being meshed with law enforcement functions at all levels. A greater mutual respect is developing between intelligence and enforcement personnel which has lessened, if not eliminated, rivalry and instilled cooperation. Intelligence support at regional and headquarters levels has provided authoritative national and international projections on drug availability, price, and purity.

We realize that intelligence programs must be continually evaluated and activities monitored by competent and objective personnel. In this regard, after Acting Administrator Henry S. Dogin assumed command of DEA last June, he caused to be initiated an indepth investigation and evaluation of certain key aspects of the DEA Office of Intelligence by the Department of Justice—this program is well underway at present. Further, Mr. Dogin has assigned a career drug enforcement manager with over 26 years' experience, Daniel P. Casey, to fill the position of Assistant Administrator of Intelligence. Mr. Casey has the specific mandate to evaluate DEA's intelligence program and to submit such proposals as may be necessary to improve the program. Mr. Dogin has assigned Mr. Casey to set up an effective interface with the FBI in order to make the best use of the intelligence-gathering resources of that Bureau. Additionally, Mr. Dogin has directed that the intelligence program be included in the audits conducted by DEA evaluation units in order for us to make certain that adequate emphasis is being given to intelligence in all of our DEA's field offices.

Acting Administrator Dogin and other senior staff members of DEA regularly meet with their counterparts in Customs agency service to improve our exchange of intelligence data; a teletype stressing this responsibility was sent to all DEA installations in July 1975. We have received complimentary letters from Commissioner Acree since that date on the overall improvement of informational exchange. There have been several such letters, and we are pleased to report that our relations with Customs is the best it has ever been to date.

During the last 4 months, as an example of our exchange of information with the Customs agency service, we have forwarded the following intelligence items to the U.S. Customs Service: 128 reports on suspected aircraft; 309 reports on suspected vehicles; 84 reports on suspected vessels; 1,011 reports on suspected persons; 28 reports on suspected businesses; 27 reports on suspected smuggling and concealment methods; 22 special reports on studies of drug trafficking networks; 90 instances where we conducted file checks through the EPIC system in El Paso, and 31,851 checks through our NADDIS subject reports file.

The office has also initiated a series of periodic intelligence reports designed to support field units with strategic and operational intelligence and to provide a broad view of illicit drug production and distribution for U.S. policymakers. Among these is a quarterly publication of intelligence trends which provides an overview of drug availability that is worldwide in scope. It is designed to provide a strategic analysis of national and international narcotics and dangerous drug production, distribution, and projections that will serve as a basis for sound national decisions on the targeting of drug enforcement resources. It will also support diplomatic initiatives that may be applied to reduce the flow of illicit narcotics and dangerous drugs into the United States.

At least 200 illicit drug network analyses and at least 2,000 biographic profiles on traffickers have been distributed. In addition, more than 10,000 illicit drug enforcement targets were referred to Federal, State, and local authorities.

Currently, the office of intelligence has an authorized force of 120 employees, including 23 at EPIC, and is operating under a continuing resolution based on last year's operating budget of $152,000. Included

in these employees are 19 special agents, and 53 intelligence analysts. Additionally, all of DEA's 19 regional offices have a regional intelligence unit. These units are responsible for the production of tactical intelligence in support of regional investigative activities and support of the headquarters strategic intelligence report.

I might add, Mr. Chairman, that the figures I just gave are not the sum total of our intelligence efforts. In the day-to-day operations of DEA's criminal investigators, great quantities of intelligence about drug violators are collected and put into our program. Therefore, it is difficult to place a specific price tag on DEA's total activities which may be described as "intelligence."

A matter of major concern in DEA is our ability to bring to the criminal justice system of the United States, or any other competent jurisdiction, those organizations, and principal members of organizations involved in the growing, manufacture, or distribution of controlled substances appearing in or destined for the illicit traffic in the United States, that is, to make conspiracy cases against the highest levels of the illicit drug traffic. To accomplish this, DEA strives to create a narcotics intelligence system in cooperation with Federal, State, local, and foreign officials to collect, analyze, and disseminate data and operate within the policy guidance of the Cabinet Committee on International Narcotics Control in all its relations and programs associated with drug law enforcement officials of foreign countries. Indepth investigations, fully supported by a methodical, efficient intelligence system, will go far in disrupting the illicit drug traffic. Also, we believe this offers the best cost-effective approach.

In summary, the DEA intelligence program has come a long way in 2 years. We have had some setbacks and made some false starts. We have identified some problem areas, and have arranged for further evaluations. We make no claim of being perfect. I do submit, however, Mr. Chairman, that the DEA intelligence program can and will be a model for effective drug law enforcement.

Acceptance of and reliance on DEA's intelligence is growing—not only within DEA but by other agencies as well. Many Federal, State, local, and international agencies have received the benefits of our intelligence program, and have expressed their gratitude. It is an intelligence program unique in law enforcement, and holds much promise for further development and effective use.

Thank you. I have kept my remarks brief, since I know you need sufficient time for questions. I am accompanied by several DEA officials, and I would like to introduce them.

Chairman PIKE. Certainly.

Mr. JENSON. Mr. Daniel P. Casey, who I mentioned is the Acting Assistant Administrator for Intelligence in DEA. And I also have back here, Mr. Phil Smith, who is the Chief of our Domestic Intelligence. I have Mr. Martin Pera, who is the Chief of our Domestic Investigations Division, and Mr. John Warner, who is Chief of International Intelligence, and Mr. Don Miller, who is chief counsel.

We will be happy to answer any questions at the appropriate time.

Chairman PIKE. Thank you very much, Mr. Jenson, and I want to thank you and your associates for being here.

Our next witness will be Mr. Vernon Acree.

STATEMENT OF VERNON D. ACREE, U.S. COMMISSIONER OF CUSTOMS; ACCOMPANIED BY G. R. DICKERSON, DEPUTY COMMISSIONER; GEORGE CORCORAN, ASSISTANT COMMISSIONER, INVESTIGATIONS; AND ALFRED DeANGELUS, ASSISTANT COMMISSIONER, ENFORCEMENT SUPPORT

Mr. ACREE. Thank you, Mr. Chairman; gentlemen.

I am Vernon D. Acree, U.S. Commissioner of Customs. I have served in this capacity since May of 1972. I am a career employee of 38 years' service with some credentials in the fields of administration, organization, and management. I am accompanied by Deputy Commissioner G. R. Dickerson, Assistant Commissioner, Investigations, George Corcoran, Assistant Commissioner, Enforcement Support, Alfred De Angelus, and other staff personnel. We are here at your invitation to furnish testimony concerning narcotics intelligence and its relation to the mission of the U.S. Customs Service.

The Customs Service has a long and honored 186-year history of responsiveness to changing national priorities. Over the decades as new challenges have arisen, the Customs Service, by its unique position as the country's primary border enforcement agency, has responded in a timely and effective manner meeting such recent-year challenges as liquor smuggling during prohibition, arms smuggling during the early sixties, and narcotics smuggling in the seventies.

Prior to July 1, 1973, the Customs Service shared with the Bureau of Narcotics and Dangerous Drugs the responsibility for the suppression of illicit trafficking in narcotics. In performing our role, Customs acted on all fronts in intelligence gathering, border interdiction, and investigation of narcotics smuggling traffic. Customs effectiveness was widely acknowledged both in the United States and abroad. In conjunction with BNDD, significant successes were achieved in reducing the narcotics flow into the United States. Customs, in performing its responsibilities, utilized border interdiction of narcotics as a stepping stone to the building of major conspiracy cases and the immobilization of major narcotics traffickers on a worldwide basis. For it is at the borders that narcotics and narcotics trafficking organizations are most vulnerable.

Narcotics seized at the border are in the most concentrated form with respect to purity, in their greatest bulk, and at their highest value running into the millions of dollars with respect to the investment of the trafficking organization. Ten pounds of heroin intercepted at the border represents from 120 to 200 pounds of adulterated dosages of heroin on the streets of the United States. Ten pounds intercepted at the border represents a minimum of a $400,000 investment by the trafficking organization and nearly $4 million in street value of the seized narcotics.

Information and intelligence is the key to successful interdiction and removal of narcotics and to the making of major conspiracy cases. Previously, customs officers, working overseas on the full range of intelligence and liaison activities for all Customs matters, obtained and exchanged significant narcotics intelligence which resulted in major seizures both in the United States and in foreign countries. Additionally, information derived from these seizures resulted in numerous narcotics conspiracy convictions.

In short, we had the three I's at our direct disposal: intelligence gathering abroad and domestically on smuggling cases, interdiction at the ports of entry and the borders, and investigations of smuggling cases and conspiracies. The loop was closed and the utilization of intelligence resulted in further interceptions at our borders, thus building the information base for successful conspiracy cases. The cycle developed was a self-generated and continuing one.

Reorganization Plan No. 2 of 1973, which created DEA by the amalgamation of BNDD, ODALE—Office of Drug Administration and Law Enforcement—ONNI—Office of National Narcotics Intelligence—and parts of Customs charged these working systems and interfaces between agencies. Customs was removed from narcotics intelligence gathering and narcotics smuggling investigations, but was left with the responsibility for all other contraband, fraud, firearms smuggling, intelligence gathering, and investigations—both foreign and domestic.

We were also left with the responsibility, reaffirmed by the plan, for the interdiction of all contraband, including narcotics, at the ports of entry and anywhere along the land and sea borders of the United States. Thus, we became instantly dependent upon DEA for intelligence to continue a high level of interdiction, and investigation by DEA to maintain a viable program for the continued development of international conspiracy cases. Unfortunately, neither happened, which is the subject of considerable review and recommendation in the recently issued Domestic Council White Paper on Drug Abuse. The white paper observes that:

> To date, DEA has not provided intelligence to the Customs Service relating to the modus operandi of smugglers, or regarding specific individuals, in sufficient quantity. A greater exchange is necessary.

The white paper further points out that the development of conspiracy cases should be a major element of drug law enforcement and that:

> Interdiction of drugs at the border and ports of entry is an important component of the overall supply reduction strategy because of, one, the deterrent effect; two, the potential for penetration of trafficking organizations; and three, the possible removal of large quantities of drugs. The importance of this function is enhanced by the unique search authority of Customs.

Prior intelligence is useful in the removal of drugs at the border; yet the vast majority of Customs arrests and seizures have been accomplished without any prior information both before and increasingly after Reorganization Plan No. 2. The significant difference is that Customs through its unique police function was able to investigate and develop these cold arrests and seizures into its own intelligence system to further feed the interdiction capability at the border. Unfortunately, DEA does not have this unique police structure to feed the same interdiction forces, and their investigative techniques, methodology, and objectives are substantially different from that of Customs.

Current GAO studies on Federal drug enforcement state that DEA's intelligence-gathering efforts have been geared almost entirely to identifying major traffickers and eliminating sources of supply, and little effort has been devoted to the gathering of intelligence to interdict drugs at U.S. borders and ports of entry. GAO also recognized

the efficiency and effectiveness of our former enforcement cycle in a report to Congress in which it commented upon the significant number of Customs heroin seizures resulting from information obtained from followup investigation of previous seizures. All of this capability accounted for about 80 percent of all heroin seizures in fiscal year 1971 and about 50 percent of all hard narcotic seizures credited to the Federal effort before July 1973.

Due to its classified content, I cannot quote to you directly from another recent GAO study entitled "Problems in Slowing the Flow of Cocaine and Heroin From and Through South America."

Chairman PIKE. Mr. Acree, if I can interrupt you there, that is the document that we have in our possession, is it not, Mr. Field? It is found there under "background and statistics," and I referred to it earlier when I asked the members to see if they could figure out why it was that highly classified.

Please proceed.

Mr. ACREE. Thank you, Mr. Chairman. Several points are made in that study, Mr. Chairman, to which you refer, which I believe are pertinent to our interest of the morning.

One, intelligence on the narcotics problem previously developed by Customs is no longer available.

Two—and these are quotes from the reports—intelligence is not being gathered which targets Customs requirements.

Three, adequate intelligence on drug trafficking which will assist customs in its interdictory role is not being made available.

In short, Reorganization Plan No. 2, which sought the development of a unified and cohesive Federal narcotics strategy, has achieved only limited success in its objectives to date because of the manner in which it has been implemented. Rather than expanding and developing a more comprehensive intelligence data base which serves the entire range of narcotics enforcement activities, DEA has until recently sought to approach its goals as being both proprietary and exclusionary.

Now to our experience operating with these constraints in the past 2 years: Since reorganization, two problems are identifiable with the current arrangement under which Customs intelligence needs are met. First, the amount of available intelligence has fallen significantly from the level before reorganization. Second, the kinds and quality of intelligence specifically geared to the needs of interdiction has also significantly fallen. That these problems would occur appears almost self-evident in light of the 2 years of hindsight now available to all of us.

I would like to record, Mr. Chairman, at this point that these differences in objectives, methodology, and viewpoint have been variously described as "hostile," "bureaucratic infighting," "petty squabbling," et cetera. This is simply not the fact.

What we have here are two agencies with differing missions, methodology, and operational requirements, and each agency is attempting to do its job within the limitations of its charter.

DEA is the sole Federal agency working with local police departments, and although DEA accepts seizures and potential defendants from us, some 10,000 in fiscal year 1975, we have not received the "feedback" of information and intelligence to serve our operational requirements at the ports and borders.

Much of DEA's foreign programs deal in eradication and coordination with host country police authorities with little or no information or intelligence again back to us.

I do know, however, that the operational requirements of Customs from both DEA's domestic and foreign operations should also be oriented to provide tactical and strategic intelligence to identify suppliers, shippers, receivers, organizations, and any other activity indicating methods and routes used in the smuggling of narcotics where timely interdiction can be effected at the border to prevent narcotics from becoming an internal law enforcement problem.

Along with Mr. Jenson, I would also like to affirm that some recent progress has been made. With the advent on the scene of Deputy Attorney General Harold Tyler and the acting DEA Administrator Henry Dogin, a series of meetings have been held and are continuing. Our operational requirements have been made known to these officials. They have been understood and accepted and directives have been issued within DEA that are producing results. I would be pleased to provide further details later.

However, I do not believe that any one system, procedure, program, organization or strategy can bear the full burden of meeting all expectations in terms of ridding our Nation of the narcotics menace.

This is why the Treasury Department and the Customs Service filed an addendum to the Domestic Council white paper recently released. It is our belief that the national strategy should be flexible enough to insure utilization of all available U.S. resources, skills, and statutory and regulatory authority. We believe we can make a far greater contribution, that we can cooperate and work with DEA, and that a joint effort will be far more meaningful in the national interest than unilateral strategies and initiatives.

Thank you, Mr. Chairman. That concludes my statement.

Chairman PIKE. Thank you, Mr. Acree.

Our final witness is Prof. Mark Moore, who is the former Chief Planning Officer of DEA and is currently assistant professor of public policy at the Kennedy School of Government at Harvard University.

Please proceed.

STATEMENT OF MARK H. MOORE, ASSISTANT PROFESSOR OF PUBLIC POLICY, THE KENNEDY SCHOOL OF GOVERNMENT, HARVARD UNIVERSITY; FORMERLY CHIEF PLANNING OFFICER, DRUG ENFORCEMENT ADMINISTRATION

Mr. MOORE. Thank you, Mr. Chairman. It is a pleasure to be here. I have submitted written testimony for the record. In the interest of time, I will omit sections of that written testimony in my oral presentation.

My name is Mark Moore. I am currently assistant professor of public policy at the Kennedy School of Government at Harvard University. From July 1974, to August 1975, I was the Chief Planning Officer of the Drug Enforcement Administration of the Department of Justice.

As I understand it, the mandate of this committee is generally to review the intelligence functions of the U.S. Government. You are concerned that intelligence be conducted not only with due regard

for civil liberties, but also with efficiency and effectiveness. You have asked me to discuss the efficiency and effectiveness of the intelligence program in DEA.

I will do so in the following steps. (1) I will describe the important role of intelligence in DEA's mission. In the oral presentation I will concentrate exclusively on tactical and operational intelligence as opposed to strategic intelligence. (2) I will outline the general organizational problems that arise when an effort is made to develop a professional intelligence capability in an enforcement organization like DEA. (3) I will describe the strategy that was adopted for DEA, initial limitations that made successful development of the program difficult, and some problems that developed. (4) I will indicate some significant accomplishments of DEA's intelligence program, and identify some signs that are auspicious for the future development of the program.

I should make it clear that my discussion is neither the official position of DEA, nor the analysis of an intelligence expert. I am making these remarks as a reasonably knowledgeable and thoughtful layman who had the opportunity to work closely with professionals inside DEA on the analysis and planning of the intelligence program. I am grateful to have had the opportunity. I would still be working at DEA but for the fact that my leave of absence from Harvard expired this last September.

There is a tendency to make the intelligence process mysterious. However, it is possible to have a very simple view of intelligence in an organization like DEA. The basic issues are what decisions do DEA agents make in developing cases and what information do they have available to them when they make that decision?

Basically, DEA agents make two important kinds of tactical decisions. They decide which cases are worth developing. And they make decisions about the direction of development by pushing the case in one direction rather than another, or seizing some opportunities that appear during the development and ignoring others. While this sounds abstract, it is really quite concrete and simple. Agents debrief defendants and other informants to see who they can "give up." They must gage the credibility of the informants, and the importance of the trafficker who the informant has volunteered to surrender. In the course of undercover operations or surveillance activities, new individuals will be implicated and different avenues of investigation will open up. Agents must then decide which avenues to pursue in the light of the importance of the potential targets, and the chance that they will be able to secure incriminating evidence.

These decisions are some of the most important resource allocation decisions made within DEA. After a decision has been made about the geographical allocations of agents, all the remaining important allocation decisions are then made by individual agents deciding which sets of leads to pursue and which cases to follow up.

The important question is what information do DEA agents have available to them when making these vital operational decisions. To answer this question, you have to know a little bit about the basic structure of information processing in DEA and how agents get access to that information. I hesitate to bore you with great detail about this, but it is very important to understand some of the mechanics of

the system because in some respects what we are talking about is a very mechanical procedure and mechanical problem.

Information collected by DEA agents comes into headquarters in several different forms. By far the most important source is the "DEA–6: Report of Investigation." However, there are also teletypes, particularly from foreign areas, and telephone calls. The DEA–6's usually arrive several weeks after the events have occurred. The telephone and teletype messages are much more timely. The written documents, DEA–6's and teletype, are stored in chronological order in numbered case files. A case file will often include many different individuals. Names mentioned in the documents will be cross indexed to other case files in which the name appears. The pages of the file are not numbered. In addition to these manual files, there is an automated system called NADDIS. Names, related case files, telephone numbers, and some narrative information are entered into the NADDIS system from the DEA–6's and teletypes. Telephone messages will enter the manual or automated data bases only if someone writes down their content on a DEA–6. Thus, the data base consists primarily of DEA–6's organized in numbered case files, cross indexed on the basis of names. The automated system called NADDIS is primarily an automated cross-indexing system. It contains only a small portion of the total information available on the DEA–6. That is the structure of the data base within DEA.

To gain access to the existing information, DEA agents in the field can do several things. First, the agents have immediate access to the case files stored in their office. If they are operating out of a regional office, this will include all the cases made in the region. If they are in a district office, only cases made in that district will be available. Second, about two-thirds of the domestic DEA offices, including about 80 percent of the domestic personnel, have access to NADDIS through a NADDIS terminal. If NADDIS is operating, and if someone in the office knows how to use the NADDIS terminal, the agent can obtain the limited but important information about individuals contained in NADDIS, and identify the case numbers of other cases in which a specific individual is mentioned. He can gain access to these other case files by asking someone at headquarters to look through the files.

The next question is how does the agent get access to those other physical files that aren't stored there, to which he is referred by NADDIS? The answer is he can call someone at headquarters and get them to look through the file or request a copy of that file. The problem is that the central files are very voluminous and difficult to look through, so that mostly agents don't do that. What they do instead is an alternative procedure which is less tidy but might be effective. Namely, they know from the case file in which office the case was made. Therefore, they can call that office, using the FTS system, and speak directly to the agent who made the other case that the inquiring agent is concerned about. That conversation over the telephone is likely to produce both more comprehensive and more timely information than the search through the files at headquarters. Thus, it is likely that the field agent's mainstays are the files stored physically in his office, NADDIS and the FTS system. While this system may not look like a formal intelligence system, it may be very effective.

The basic idea of the operational and tactical intelligence program inside DEA is to improve on this basic system—not replace it. The specific improvement is simply to create a specialized group of people who can master the case file and monitor a flow of paper relating to a given geographical area.

To do this job well, you need people who have the minds of agents and the temperament of scholars. They need the minds of agents to identify when pieces of information are related to one another and to distinguish facts from rumors and credible allegations from rumors. They need the temperament of a scholar to be willing to spend long hours pouring through essentially written documents and recording what they observed in those written documents and they have to be satisfied with that as their contribution to the overall enforcement mission of DEA. Those people are rare. One of the major objectives of the tactical and operational intelligence program is to increase the supply of those people within DEA.

In making this investment, we are betting on a fairly simple proposition: If a man has access to a data base that covers a longer span of time and a larger geographical area than agents currently have available, the chances of discovering significant relationships that can be exploited in the investigation increase significantly.

Let me emphasize the benefits that would accrue if you had a program like that inside DEA. First, a given agent would be able to bring more information to bear on the decisions about which cases to develop, and the direction in which to develop them. On average, if his decision got slightly better (that is, he changed from a .200 hitter to a .350 hitter), DEA's overall production would increase significantly.

Second, relationships between cases being developed simultaneously would be noted, and the tactics in the case adjusted to insure the effective development of what is now seen to be a single case involving several different agents from different regions.

Third, a review of historical files might reveal significant investigative opportunities in relationships among cases that were not noticed at the time. These opportunities would become available as additional leads for agents to consider in deciding how to allocate their time.

There is an additional point about this process. As the intelligence analysts worked with the existing case files to support ongoing investigations, they would be effectively rearranging the information currently available within DEA. Pieces of information previously stored in disparate case files would begin to be organized in coherent pictures of trafficking networks. Implicitly over time a new data base organized on a much different and more useful basis than the existing files would begin to grow. This is an aspect of the intelligence program to which Mr. Jenson also referred.

Thus, there is some potential benefit of an operational and tactical intelligence program inside DEA. Its exact benefits are somewhat uncertain.

Now, it should be apparent from the discussion above that there will be some general problems in seeking to develop intelligence programs in enforcement organizations. Nearly every police organization seeking to develop an intelligence program will encounter the same kind of problems. I would like to describe the problems.

First, there is the problem of information processing. The systems that exist in police organizations before they get an intelligence system are unlikely to be useful for intelligence purposes. The design of new filing and indexing systems and the shift from manual systems to automated systems is likely to require more resources and greater technical expertise than enforcement organizations are likely to have available to them. Thus, you have to understand that you are going to pay a very high entry cost whenever you decide to set up an intelligence system inside an enforcement organization.

Second, there is the problem of capturing what agents and police officers know for the intelligence system. Agents do not write everything down that is important. This is true partly because it is simply inconvenient and expensive to do so. In fact, I once argued the greatest contribution to the New York City Police Department intelligence program was simply to spend more money for secretaries on the principle that the reason lots of information wasn't getting there is that it wasn't being written down. A second reason that information doesn't get into the system is that agents are concerned that other agents will use that information and make the case before the original agent gets around to using it. A third reason is that it is very important to keep the case files clean of irrelevant information because they are going to be used for evidentiary purposes. All three of those factors tend to make it difficult to get information that agents know captured in the existing intelligence system.

The third problem is there is a basic hostility toward intelligence functions in enforcement organizations. I am not entirely clear about the exact reasons for these hostilities, but I have a couple of suspicions. I think the major problem is the functions of an intelligence analyst are almost wholly included within the functions of an investigator. No investigator would be happy to admit that he had not mined the files of his organization for every nugget of relevant information. Consequently, investigators think they should be doing what the intelligence analysts are doing, and also believe that they performed this function better at lower cost than the analysts currently do.

A corollary of this contempt is the fear that the analysts may do the job better than the agents. There is a fear that the analysts will discover things the agent did not notice, or suggest things the agent would never take seriously, or steal credit for cases that agents helped to make. The possibility that intelligence analysts could embarrass, propose to guide, or steal credit from agents is particularly galling to agents because the intelligence analysts are desk workers who face no risks.

Thus, whenever one proposes to establish an intelligence program in an enforcement organization, one faces serious technical, financial, and organizational problems. It is a very expensive and time-consuming effort.

These general problems were known to the architects of DEA. Indeed, these problems guided their calculations. They were concerned about two things:

First, they were concerned about getting a major, sustained investment in the basic systems that would support an intelligence profession inside the organization. This argued for the creation of a separate Office of Intelligence headed by an Assistant Administrator who could

take responsibility for the development of the profession, and compete successfully with other programs for resources.

On the other hand, they had to be worried about insuring effective coordination between operational intelligence analysts and enforcement agents. Coordination was important partly to secure the benefits of operational intelligence and partly to win acceptance for the intelligence function among the enforcement side of the organization. Effective coordination argued for close liaison and integration of intelligence analysts in the operational chain of command, namely, no separate Office of Intelligence.

In the end, they decided that insuring the development of the profession was the immediate problem. They would worry about effective coordination later. Consequently, they decided to establish a separate Office of Intelligence. Moreover, in choosing the man to head this office, they nearly pulled off a brilliant compromise. They found a man who combined three important charcteristics: He was probably the strongest program manager in DEA, he was highly respected by enforcement types, and he seemed to have respect for intelligence. Thus, they could put him in charge of intelligence, rely on his management skill and interest in intelligence to establish the profession, and rely on his credibility with enforcement agents to solve the long-run problem of integrating intelligence into DEA's overall program.

This was a very good calculation. However, there were several particular problems in DEA that spoiled these reasonable hopes.

First, DEA had to deal with the trauma of a general reorganization. The instability created by the reorganization meant that there were hundreds of problems to be resolved, many people to be reassured, and many new programs that had to be funded. A program that needed a very large investment of new resources and careful attention to procedures and personnel would have a hard time.

Second, the basic foundations for an intelligence program in DEA were fairly weak. BNDD's small strategic intelligence staff was combined with the larger ONNI. Neither organization had a particularly distinguished record in the area of operational intelligence. Indeed to some extent one had to regard these transfers as liabilities rather than assets. They absorbed a large fraction of the available resources, and would complicate efforts to redesign a new program.

Third, supervisory positions in the intelligence program were used to absorb high grade agent personnel who were displaced in the reorganization. Many of these people had little commitment, and less knowledge about how to establish an intelligence program.

Fourth, the ADP program in DEA was extremely hard pressed. It was struggling under the burden of three major ADP systems which were coming into operation—for example, NADDIS, CSA, ARCOS—and two other systems which were supposed to be ready but were lagging very behind schedule—for example, STRIDE and DEA–AS.

Fifth, after failing to get the resources and attention he felt he deserved and needed, the Assistant Administrator for Intelligence turned instead to operational programs in which he was very interested. These programs exaggerated the potential conflict between enforcement and intelligence.

Thus, within a year or two after DEA was established, it became clear that we had the worst of all worlds. In establishing a separate

Office of Intelligence we had paid the price of poor coordination. Indeed, we had active competition, not just poor coordination. And there was little evidence of a developing intelligence profession.

First that statement I made in January last year approximately.

Despite these problems, the intelligence program within DEA did have some significant accomplishments during this period.

Significant accomplishments included the development and routine use of the heroin signature program which allows DEA to make more precise estimates about the sources of drugs; the development of an interagency intelligence facility on the Southwest border which will insure that large amounts of information available within DEA are brought to bear on operation decisions in the vital area of the Southwest border; and third, significant and increasing contributions by operational and tactical intelligence to take care of major conspiracy cases made by CENTAC units.

These accomplishments signal a significant potential within the current intelligence program.

Hopeful signs indicating that the program is now moving in the correct direction include the following:

Gradual replacement of 1,811 supervisors in the intelligence area.

The development of filing procedures to facilitate and organize intelligence production.

Closer liaison between intelligence analysts and enforcement people to insure relevant intelligence.

Thus, we are beginning to see the best of all worlds—a world in which intelligence is flourishing and effectively cooperating with enforcement operations.

However, it is important to keep in mind that the development of this program is by nature a long-run process. Since I have returned to Harvard, I have discussed this organizational problem with several colleagues—including some from the Harvard Business School. They point out that even in a private firm where they have significant discretion over hiring and firing, we would be thinking in terms of a 5-year development program. In a Government agency, with less discretion about personnel and less measurable outputs the process would probably be substantially longer. I hope that this committee will lend its weight to assist DEA in this development process. It is the duty of all of us to do so.

Thank you.

[Professor Moore's prepared statement follows:]

PREPARED STATEMENT OF MARK H. MOORE, ASSISTANT PROFESSOR OF PUBLIC POLICY, THE KENNEDY SCHOOL OF GOVERNMENT, HARVARD UNIVERSITY, FORMERLY CHIEF PLANNING OFFICER, DRUG ENFORCEMENT ADMINISTRATION

INTRODUCTION

My name is Mark Moore. I am currently an Assistant Professor of Public Policy at the Kennedy School of Government at Harvard University. From July, 1974 to August, 1975, I was the Chief Planning Officer of the Drug Enforcement Administration of the Department of Justice.

As I understand it, the mandate of this Committee is generally to review the intelligence functions of the U.S. Government. You are concerned that intelligence be conducted not only with due regard for civil liberties, but also with efficiency and effectiveness. You have asked me to discuss the efficiency and effectiveness of the intelligence program in DEA.

I will do so in the following steps. First, I will describe the important role of intelligence in DEA's mission. Second, I will outline the general organizational problems that arise when an effort is made to develop a professional intelligence capability in an enforcement organization like DEA. Third, I will describe the strategy that was adopted for DEA, initial limitations that made successful development of the program difficult, and some problems that developed. Fourth, I will indicate some significant accomplishments of DEA's intelligence program, and identify some signs that are auspicious for the future development of the program.

I should make it clear that my discussion is neither the official position of DEA, nor the analysis of an intelligence expert. I am making these remarks as a reasonably knowledgeable and thoughtful layman who had the opportunity to work closely with professionals inside DEA on the analysis and planning of the intelligence program. I am grateful to have had the opportunity. I would still be working at DEA but for the fact that my leave of absence from Harvard expired on September 1, 1975.

THE ROLE OF INTELLIGENCE IN DEA

There is a tendency to make the intelligence process mysterious. In some organizations, at some levels of analysis, I am certain that the process is difficult and mysterious. However, it is possible to have a very simple view of intelligence in an organization like DEA.

We need a basic distinction. *Strategic* intelligence will be defined as intelligence which contributes to evaluations of DEA's performance or affects basic allocation decisions within DEA. It has no effect on the development of individual cases. *Operational* and *tactical* intelligence will be treated together and defined as intelligence that affects the development of individual cases. I will discuss strategic intelligence first because it can be handled fairly quickly, and then give more concentrated attention to operational and tactical intelligence.

The Administrator of DEA is responsible for monitoring the performance of his organization, and for knowing what shifts of resources from one geographic area to another, or from one program to another, are likely to improve the performance. Strategic intelligence should supply him with this information. Specifically, strategic intelligence should inform him on the following issues:

Trends in the abuse of different kinds of drugs.

Levels of price and availability of drugs in illicit markets.

The major sources of drugs to illicit markets.

The capabilities of drug control agencies of other governments that are potentially able to assist DEA in overall drug control efforts.

The structure of illicit distribution systems.

If he knows these things, he can make reasonable policy decisions about the allocation and use of his resources, and can reliably report on the external environment he faces, and what he has been able to accomplish.

Two things are worth noting about the strategic intelligence program. First, strategic intelligence requires information and analytic capabilities that are significantly different from the information and analysis that are required to make cases. For example, it is important to collect information about the capabilities of other drug control agencies so that DEA will know how much of the job they can depend on these other agenices to do, and how DEA can best complement their efforts. In the course of their regular efforts, DEA agents will pick up some information of this kind. However, to have systematic information available, special collection efforts must be organized. Another example: strategic intelligence analysts must be able to discern general trends in a welter of detail. For some requirements involving quantitative data, this simply requires that the analysts be competent statisticians. However, for other requirements the analysts must be able to develop general models and descriptions on the basis of fragments of information. In an agency that is oriented to producing evidence to be used in court to convict individuals, this speculative effort to establish general trends seems suspicious. Thus, the strategic intelligence function does not fit neatly into the ordinary operators of an enforcement agency. Second, despite these problems, DEA has made some substantial progress in the strategic intelligence area—particularly with respect to the first three requirements. Indeed, DEA is now in an excellent position to monitor trends in the use, availability, and sources of heroin. These issues can be resolved with some confidence and precision.

The basic purpose of the operational and tactical intelligence program is to insure that the full weight of DEA's international data base be brought to bear on the operational decisions made by individual DEA agents. To understand the

importance of this function, it is necessary to understand a little about the important decisions in making cases, and the information that is currently and potentially available to DEA agents who make those decisions.

DEA agents make two important kinds of tactical decisions. They decide which cases are worth developing. And they make decisions about the direction of development by pushing the case in one direction rather than another, or seizing some opportunities that appear during the development and ignoring others. While this sounds abstract, it is really quite concrete and simple. Agents de-brief defendants and other informants to see who they can "give up." They must gage the credibility of the informants, and the importance of the trafficker who the informant has volunteered to surrender. In the course of undercover operations or surveillance activities, new individuals will be implicated and different avenues of investigation will open up. Agents must then decide which avenues to pursue in the light of the importance of the potential targets, and the chance that they will be able to secure incriminating evidence. In effect, agents are constantly evaluating "leads." Their individual decisions about which leads to follow will determine the aggregate production and ultimate impact of DEA.

Now, the important question is what information do DEA agents have available to them when making these vital operational decisions. To answer this question, one must know about the basic structure of information processing within DEA. One must know how the national data base is created and organized, and how DEA agents in the field can gain access to this information.

Information collected by DEA agents comes into headquarters in several different forms. By far the most important source is the "DEA–6: Report of Investigation." However, there are also teletypes (particularly from foreign areas), and telephone calls. The DEA–6's usually arrive several weeks after the events have occurred. The telephone and teletype messages are much more timely. The written documents (DEA–6's and teletype) are stored in chronological order in numbered case files. A case file will often include many different individuals. Names mentioned in the documents will be cross-indexed to other case files in which the name appears. The pages of the file are not numbered. In addition to these manual files, there is an automated system called NADDIS. Names, related case files, telephone numbers, and some narrative information are entered into the NADDIS system from the DEA–6's and teletypes. Telephone messages will enter the manual or automated data bases only if someone writes down their content on a DEA–6. Thus, the data base consists primarily of DEA–6's organized in numbered case files, cross-indexed on the basis of names. The automated system called NADDIS is primarily an automated cross-indexing system. It contains only a small portion of the total information available on the DEA–6.

To gain access to the existing information, DEA agents in the field can do several things. First, the agents have immediate access to the case files stored in their office. If they are operating out of a regional office, this will include all the cases made in the region. If they are in a district office, only cases made in that district will be available. Second, about two-thirds of the domestic DEA offices (including about 80% of the domestic personnel) have access to NADDIS through a NADDIS terminal. If NADDIS is operating, and if someone in the office knows how to use the NADDIS terminal, the agent can obtain the limited, but important information about individuals contained by NADDIS, and identify the case numbers of other cases in which a specific individual is mentioned. He can gain access to these other case files by asking someone at headquarters to look through the files. However, because the pages of the files are not numbered and the files are often very thick, sifting through the related case files is a time-consuming chore. Probably a more valuable source of information is the FTS. telephone system. From NADDIS, the agent will know which offices made different cases. A telephone call to that office will often enable the inquiring agent to talk to the agent who made the related case. Their conversation is likely to produce more comprehensive information more quickly than checking the files. Thus, it is likely that the field agent's mainstays are the files stored physically in his office, NADDIS and the FTC system. While this system may not look like a formal intelligence system, it may be very effective.

The basic idea of the operational and tactical intelligence program inside DEA is to improve on this basic system—not replace it. The specific improvement is simply to create a specialized group of people who can master the case file and monitor a flow of paper relating to a given geographical area. Basically, this capability represents a large investment in operational intelligence *analysis*. The analysts should steep themselves in the historical record of investigations, come

to know the traffickers and their organizations, and monitor on-going cases in the context of that historical record. In making this investment, we are betting on a fairly simple proposition: if a man has access to a data base that covers a longer span of time and a larger geographical area, the chance of discovering significant relationships that can be exploited in the investigation increase significantly.

If this capability existed, several significant benefits would accrue. First, a given agent would be able to bring more information to bear on the decisions about which cases to develop, and the direction in which to develop them. On average, if his decision got slightly better (i.e., he changed from a .200 hitter to a .350 hitter), DEA's overall production would increase significantly. Secondly, relationships between cases being developed simultaneously would be noted, and the tactics in the case adjusted to insure the effective development of what is now seen to be a single case involving several different agents from different regions. Third, a review of historical files might reveal significant investigative opportunities in relationships among cases that were not noticed at the time. These opportunities would become available as additional leads for agents to consider in deciding how to allocate their time. If done well, this would have a profound impact on the kinds of cases developed within DEA. One would expect to see more cases involving high level traffickers, more cases crossing regional boundaries, and more cases involving conspiracy charges for historical offenses which had not yet passed the statute of limitations. DEA's aggregate production would increase.

There is an additional point about this process. As the intelligence analysts worked with the existing case files to support on-going investigations, they would be effectively re-arranging the information currently available within DEA. Pieces of information in disparate case files would be organized into coherent pictures of trafficking networks. Implicity, then, a new data base, organized on a much different and more useful basis than the existing case would begin to grow. The growth of this data base would mean that retrieval from manual files would be easier in the future. Moreover, there would be a new possibility for automation of the files. In effect, the analysts' work has an investment component as well as an immediate, operational component.

There are several things worth noting about this process. First, in order to do this job well, one needs people who have the minds of agents and the temperaments of scholars. They need the minds of agents to insure: (1) that the analysts can distinguish facts from credible allegations; and credible allegations from rumours; and (2) that they are able to see when two pieces of information are related in a way that explains a whole set of relationships or a whole pattern of activity. They need the temperaments of scholars to insure that they are satisfied with and absorbed by the process of sifting through pieces of paper to discover facts. Such people are rare, and somewhat difficult to train.

Second, what is called operational and tactical intelligence in DEA is really only a piece of the total intelligence process. Intelligence in DEA means *analysis* and *production*. And then it means only a portion of the analysis and production that is actually done within DEA. People called *Agents* do the vast majority of the intelligence collection, and no small portion of the total analysis and production. In effect, agents performing what would be called intelligence functions in an intelligence organization, surround the tiny piece of the overall intelligence process that is given to the program called Intelligence in DEA. Intelligence in DEA is really only an increased expenditure on the process of analysis and production.

Third, it is clear that the basic structure of information processing in DEA is likely to be a problem. There is some problem with timeliness for written documents—but this is not likely to be a major problem. Six months to several years may be a reasonable planning horizon for most conspiracy cases. More serious problems exist in capturing, organizing, and retrieving the information. The case files are incomplete in terms of information available to agents and very difficult to work with in doing analysis. There is a long design process ahead in terms of filing procedures and automation.

Fourth, the *net* contribution of the operational and tactical intelligence program depends a great deal on how well agents are doing with the combination of NADDIS and FTS. Some portion of the potential that exists to be captured by the improved operational intelligence program is already being captured by this other ad hoc system. It is unclear what fraction this is, but if it is substantial, then the potential net contribution of existing intelligence system will be fairly small.

Thus, there are potentially significant contributions to be made to DEA's enforcement program by an effective strategic intelligence program and an effective operational intelligence program. One would expect to see the results of improved strategic intelligence in the form of more accurate characteristics of the drug abuse problem, more rational allocation decision, and increased productivity. One would expect to see the results of an improved operational intelligence program in the form of cases that involved higher quality defendants, crossed regional boundaries, and charged people with conspiracy for historical offenses. Both would contribute to DEA's ability to control the drug problem.

GENERAL PROBLEMS OF INTELLIGENCE PROGRAMS IN ENFORCEMENT ORGANIZATIONS

It should be apparent from the discussion above that there will be some *general* problems in seeking to develop intelligence programs in enforcement organizations. These problems will show up in any enforcement organization embarking on an intelligence program. There are three problems worth noting.

First, there is the problem of information processing. Existing systems, both manual and automated, are unlikely to be useful. The development of new filing and indexing systems is likely to be very difficult. Shifting from manual systems to automated systems is likely to require more resources and greater technical expertise than enforcement organizations are likely to have available to them. Thus, one must pay a *very* high entry cost to have an intelligence oriented data base.

Second, there is the problem of capturing what agents know for the intelligence system. Agents do not write everything down that is important. This is true partly because it is simply inconvenient and expensive to do so (I once argued that the greatest contribution to the intelligence system of the NYCPD would be simply to provide more secretaries) ; partly because they are concerned that other agents will use the information to make a case before they get around to it ; and partly because it is important to keep the case files clean of irrelevant information for evidentiary purposes.

Third, there is a basic hostility toward IG functions in enforcement organizations. The exact reasons for this hostility are not clear. However, I think it is related to the following factors. The functions of an intelligence analyst are almost wholly included in the functions of an investigator. No investigator would be happy to admit that he had not mined the files of his organization for every nugget of relevant information. Consequently, investigators think they should be doing what the intelligence analysts are doing, and also believe that they performed this function better at lower cost than the analysts currently do. A corollary of this contempt is the fear that the analysts may do the job better than the agents. There is a fear that the analysts will discover things the agent did not notice, or suggest things the agent would never take seriously, or steal credit for cases that agents helped to make. The possibility that intelligence analysts could embarrass, propose to guide, or steal credit from agents is particularly galling to agents because the intelligence analysts are dilletantes who face no risks. They do not know how hard it is to de-brief a defendant nor crash a door. They sit secure in their offices to embarrass and guide street agents who risk their neck and work long and irregular hours. Whatever the reasons, it seems clear that agents are hostile towards intelligence analysts and take every opportunity to degrade them and limit their program.

Thus, whenever one proposes to establish an intelligence program in an enforcement organization, one faces serious technical, financial, and organizational problems. It is an expensive effort.

PROBLEMS OF DEVELOPMENT WITHIN DEA

These general problems were known to the architects of DEA. Indeed, these problems guided their calculations. They had to be concerned about two conflicting objectives. On the one hand, they were concerned about getting a major, sustained investment in the basic systems that would support an intelligence profession (e.g., personnel systems and information systems). This argued for the creation of a separate Office of Intelligence headed by an Assistant Administrator who could take responsibility for the development of the profession, and compete successfully with other programs for resources. On the other hand, they had to be worried about insuring effective coordination between operational intelligence analysts and enforcement agents. Coordination was important partly to secure the benefits of operational intelligence and partly to win acceptance for

the intelligence function among the enforcement side of the organization. Effective coordination argued for close liaison and integration of intelligence analysts in the operational chain of command.

In the end, they decided that insuring the development of the profession was the immediate problem. They would worry about effective coordination later. Consequently, they decided to establish a separate Office of Intelligence. Moreover, in choosing the man to head this office, they nearly pulled off a brilliant compromise. They found a man who combined three important characteristics: he was probably the strongest program manager in DEA; he was highly respected by enforcement types; and he seemed to have respect for intelligence. Thus, they could put him in charge of intelligence, rely on his management skill and interest in intelligence to establish the profession, and rely on his credibility with enforcement agents to solve the long-run problem of integrating intelligence into DEA's overall program.

This was a reasonable calculation. I can easily manage myself making it. Moreover, in many situations it might have been successful. However, there were several particular problems in DEA that spoiled these reasonable hopes.

First, DEA had to deal with the trauma of a general reorganization. The instability created by the reorganization meant that there were hundreds of problems to be resolved, many people to be reassured, and many new programs that had to be funded. Moreover, most of these issues had to be resolved at fairly high levels because an important consequence of any reorganization is to confuse the delegation of authority. The result was that the central management and financial resources of the organization users were very hard pressed. A program that needed a very large investment of new resources and careful attention to procedures and personnel would have a hard time.

Second, the basic foundations for an intelligence program in DEA were fairly weak. BNDD's small strategic intelligence staff was combined with ONNI. Neither organization had a particularly distinguished record. Indeed to some extent, one had to regard these transfers as liabilities rather than assets. They absorbed a large fraction of the available resources, and would complicate efforts to design a wholly new program.

Third, supervisory positions in the intelligence program were used to absorb high grade 1811 personnel who were displaced in the reorganization. Many of these people had little commitment, and less knowledge about how to establish an intelligence program.

Fourth, the ADP program in DEA was extremely hard pressed. It was struggling, under the burden of three major ADP systems which were coming into operation (e.g., NADDIS, CSA, ARCOS), and two other systems which were supposed to be ready but were lagging very behind schedule (e.g., STRIDE and DEA-AS).

Fifth, after failing to get the resources and attention he felt he deserved and needed, the Assistant Administrator for Intelligence lost some of his interest in developing the profession of intelligence. He turned, instead, to operational programs. These programs exaggerated the potential conflict between enforcement and intelligence.

Thus, within a year or two after DEA was established, it became clear that we had the worst of all worlds. We had paid the price of poor coordination. (Indeed, we had paid it in spades. There was active competition between enforcement and intelligence, not just poor coordination.) And there was little evidence of a developing intelligence profession.

SOME HOPEFUL SIGNS

Despite these problems, the Intelligence Program within DEA did have some significant accomplishments during this period. Moreover, current signs about the development of the program are auspicious.

Significant accomplishments include:

The development and routine use of the Heroin Signature Program which allows DEA to make more precise estimates about the sources of drugs.

The development of an interagency intelligence facility on the Southwest Border which will insure that large amounts of information available within DEA are brought to bear on operational decisions in this vital area.

Significant and increasing contributions by operational and tactical intelligence to major conspiracy cases made by CENTAC units.

These accomplishments signal a significant potential within the current intelligence program.

Hopeful signs indicating that the program is now moving in the correct direction include the following:

Gradual replacement of 1811 supervisory personnel in the IG program with intelligence professionals.

The development of consistent manual filing procedures, prototype analyses and quality procedures to facilitate and organize intelligence production.

Closer liaison between intelligence analysts and enforcement desks to insure timely and relevant intelligence products.

Thus, we are beginning to see the best of all worlds—a world in which the intelligence profession is flourishing and effectively co-operating with enforcement operations.

However, it is important to keep in mind that the development of this program is by nature a long-run process. Since I have returned to Harvard, I have discussed this organizational problem with several colleagues—including some from the Harvard Business School. They point out that even in a private firm with the advantages of easily measurable outputs and significant discretion over hiring and firing, we would be thinking in terms of a five-year development program. In a government agency, with less discretion about personnel and less measurable outputs the process would probably be substantially longer. I hope that this committee will lend its weight to assist DEA in this development process. It is the duty of all of us to do so.

Chairman PIKE. Thank you very much, Professor Moore.

The committee will now proceed under the 5-minute rule. We may find it necessary to go into executive session. We may decide this can be done at the staff level. I will rely on the judgment of the committee.

I would like to ask you first, Mr. Jenson: Is our intelligence such, today, that we know where the hard narcotics on the streets of America come from?

Mr. JENSON. Yes, sir, Mr. Chairman. Through the signature program that Dr. Moore referred to, we were able to determine within a reasonable percentage of accuracy the actual source country of the heroin.

Chairman PIKE. You refer to heroin. Is the same also true for cocaine?

Mr. JENSON. Cocaine, yes, sir. Cocaine originates in South America. All cocaine coming into the United States, for that matter, around the world, is from South America?

Chairman PIKE. South America is a fairly large area. Can we pinpoint it any better than South America.

Mr. JENSON. Principally, sir, the producing country is Peru, in the Andes Mountain Range in South America.

Chairman PIKE. Mr. Acree, would you agree that, today, we know pretty well where the hard drugs coming into America come from?

Mr. ACREE. I would agree certainly, Mr. Chairman, that we know the origin countrywise of the hard drugs coming into the United States, but I do not know, sir, as to how they get here.

Chairman PIKE. So there is a problem not so much as to pinpointing where they are basically grown and perhaps produced, but the routes by which they get into America?

Mr. ACREE. The routes, the modes, the means, the manner by which they are smuggled into the United States.

Chairman PIKE. I would ask you, Mr. Jenson, what proportion of the drugs illicitly entering the United States of America, in your judgment, are detected and seized today?

Mr. JENSON. That would be simply an estimate on our part and it would have to be broken down by the different types of drugs.

Chairman PIKE. For my purpose skip marihuana.

Mr. JENSON. In the case of heroin, something like 10 percent or less of the total required for the estimated addict population of the United States are confiscated.

Chairman PIKE. How about the other hard drugs?

Mr. JENSON. Cocaine, that is a little harder to get a handle on. The use of cocaine is much wider spread and we do not really have as much of an estimate figure on the actual consumption of cocaine and, therefore, we don't know really how much is entering the United States.

In the case of the addict population, we do have a rough estimate of the number of addicts. We can then compute the average daily consumption of an individual addict and make a determination.

Chairman PIKE. Do you come up with a figure of better than 10 percent or worse than 10 percent?

Mr. JENSON. Again, I would say it probably would range in the same area. Something around 10 percent.

Chairman PIKE. So, with all of your efforts in this regard during the last few years—and Congress has devoted some time to this—we are still intercepting roughly only about 10 percent of the drugs that are flowing into the country?

Mr. JENSON. That is correct, sir, but there is another factor, here. In the last couple of years we have expanded our international operations. The DEA is now located in 61 posts in 42 foreign countries, and a great deal of activity is occurring there in the eradication area and in the destruction and seizure of laboratories, which prevents production or reduces the amount that would be available to be smuggled into the United States.

Chairman PIKE. In your judgment, is the intelligence input into the process better or worse, today, than it was before the creation of the DEA?

Mr. JENSON. In my opinion, it is considerably better today than ever before. We, today, know more about the producing areas of the world, the quantities they are capable of producing. We don't have all of that information, but we are working toward that end, and we do have a good starting point to develop that type of information. What types of drugs are available or could be available, and also from the domestic side of it, what drugs are abused, or those that have the greatest potential for abuse, so we can take necessary action here to control or to make efforts to reduce the availability of those substances.

Chairman PIKE. Mr. Acree, may we have your views?

Mr. ACREE. I would have to say, insofar as the Customs Service is concerned, that we find ourselves, as I indicated in my opening statement, disadvantaged by the kind, both kind and volume of information that fits our operational requirements.

We need to know not really where it is grown—and some of the areas my associate, Mr. Jenson, referred to—but we need to know how it is getting into our country. We do not know, sir.

Chairman PIKE. Mr. Treen.

Mr. TREEN. Thank you, Mr. Chairman.

I want to follow up on that. How many names do you have in this personal data base, Mr. Jenson, in DEA?

Mr. JENSON. We have more than one system, sir, In our——

Mr. TREEN. You have several systems. One is a filing system based upon the names of individuals, and I assume in that system you have all available information on that particular individual. Is that correct?

Mr. JENSON. Yes.

Mr. TREEN. How many names do you have in there?

Mr. JENSON. Approximately half a million, sir.

Mr. TREEN. Half a million names?

Mr. JENSON. Yes, sir.

Mr. TREEN. On which you have, I would assume, varying degrees of information. That is, from hard information down to just rumor or hearsay; is that correct?

Mr. JENSON. That is correct.

Mr. TREEN. Now, how do you disseminate intelligence information to the Customs Service? Mr. Acree has just indicated that, as I gather, he is not getting information that he formerly would have, which would arouse the suspicion that someone is coming into the country in some manner with narcotics.

When you get information which would be useful to Customs for interdiction purposes, how do you disseminate this?

Mr. JENSON. It would depend on the nature of the activity. If it is something concerning an operational matter that develops in one of our field offices, the field office would inform the Customs counterpart in that particular location, and we would work jointly, where appropriate, with them, in the pursuit of this information.

Also, we now have established here in headquarters in Washington a unit that provides day-to-day information to the Customs Service.

Mr. TREEN. Day-to-day operational information?

Mr. JENSON. Plus not only operational information but that of the more or less strategic type that will identify source countries——

Mr. TREEN. I understand that. I am trying to get to the kind of information that Mr. Acree apparently thinks he used to get regarding the entry of narcotics into the country. Let's narrow it down to that.

You send out all information that you get that would arouse suspicion that someone is going to come into the country with drugs. Do you send that daily to the Customs Service?

Mr. JENSON. That is correct, we do, including whatever information we have such as license plates, if it is an automobile that is suspected of being involved. If we have any information as to the type of smuggling, whether it is a secret compartment in a suitcase or in a hollowed-out portion of the drive shaft of an automobile, this type of information is furnished to the Customs agency.

Mr. TREEN. Mr. Acree, what kind of information is it that you used to get when you had that within your agency that you are not getting now? You have indicated, I think pretty strongly, that you are not able to accomplish the interdictions at the border that you used to be able to—is that your bottom-line statement?

Mr. ACREE. Yes. I also indicated since June there has been marked improvement. I think it is in that context that Mr. Jenson is speaking, and I would certainly have to agree that since June there has been marked improvement.

In fact, I have brought with me some of the letters I have written to Mr. Dogin in this regard. One dated September 22, 1975:

As a followup to our discussions September 15, I am pleased to let you know our efforts are beginning to bear fruit. Upon my return to Washington I was informed that on September 12, we received a significant number of DEA arrest reports.

Mr. TREEN. I do appreciate that—that it is improving.

Mr. ACREE. It is improving, sir.

Mr. TREEN. Is it up to the level that you want it to be or the level we had before the reorganization?

Mr. ACREE. No, sir; it is not to that level.

Mr. TREEN. You have indicated that you used to be able to make a lot of "cold" arrests. I assume you mean by that arrests not based on hard information; is that correct?

Mr. ACREE. That is correct, sir.

Mr. TREEN. Why can't you still make these cold arrests? You seem to indicate that since reorganization you can't make them.

Mr. ACREE. We still make the cold arrests. I would point out, however, that the percentage of cold seizures has increased substantially. As a matter of fact, since July 1, 1974, through November 12, yesterday, we made 24,177 narcotics seizures. Only 1,061 of them were based on prior information.

Chairman PIKE. The time of the gentleman has expired.

Mr. Giamo?

Mr. GIAIMO. Mr. Acree, I just heard you say, and I think Mr. Jenson before, that things are getting better.

Professor Moore, I believe you hold out hope in your statement for things getting better and you envision it will take 5 years for them to get better; but, because it is the Government bureaucracies you are talking about, it will be an even more extended time than 5 years.

It sounds to me like the classic case that we always hear in Congress from governmental agencies that things are getting better and you are telling me it is going to take somewhere around 10 years for them to become effective.

Now, if things are getting better, it means they are not too good at the present time, or certainly not the way you would like them. Is that a fair inference?

Mr. JENSON. I think Dr. Moore was referring to what is considered the normal amount of time that it takes to have an effective intelligence unit performing at peak.

Mr. GIAIMO. I understand that, but I only have 5 minutes and I don't need long answers from witnesses.

Mr. JENSON. I think we have made tremendous progress in the 2 years.

Mr. GIAIMO. I think we have made tremendous progress.

Mr. Acree, do you think that things are the way you would like to have them?

Mr. ACREE. I think that a blueprint for action in terms of the way we would like to have them certainly is underway. With the support of the present leadership in DEA and the Justice Department; yes, they are.

Mr. GIAIMO. It takes 10 years for you to reduce to 10 percent the heroin coming into this country?

Professor Moore, things were so bad with the situation before that we had to have the reorganization plan to create a new Federal agency,

and now I am drawing an inference that things are not going along too well between the new agency and Customs. You will concede, I think, that this happens in many of our Federal agencies. There is even some evidence of the fact that for some time the FBI and the CIA don't like to work with each other and some of the other agencies. This happens in some of our Armed Forces—between the Army and the Navy and so forth. It seems to be indigenous to government.

Tell us about. What is the benefit we got from the reorganization plan?

Mr. MOORE. I think the benefit you got was essentially making one organization accountable for strategic design of overall drug supply reduction efforts.

Mr. GIAIMO. This sounds great. What does it do about stopping heroin from coming into the country?

Mr. MOORE. I think focusing on the issue of how many border seizures, and the fraction of the total amount of heroin available in the country represented by those seizures is too simple a way to evaluate our performance.

If you were serious about stopping the flow of drugs into the United States, and I think we are desperately serious about the objective, the best strategy would turn out to include seizures at the border. We are always grateful for that dividend, but the major objective would be to immobilize networks that are continuing to move drugs across the border.

Mr. GIAIMO. Who are these major movers?

Mr. MOORE. They are people who we discover and are listed in our intelligence files.

Mr. GIAIMO. What is the total budget of the DEA?

Mr. JENSON. $153 million.

Mr. GIAIMO. What is the total cost of all the heroin coming into the United States?

Mr. JENSON. The cost?

Mr. GIAIMO. An estimate. You spoke about 10 pounds costing about $400,000 in one of your earlier statements. Someone mentioned 410 pounds of pure heroin at about $400,000.

How much heroin comes into the United States in a year?

Mr. JENSON. Something like 6 or 7 tons.

Mr. GIAIMO. That costs $150 million?

Mr. JENSON. Oh, yes. Broken down to the street price.

Mr. GIAIMO. Not broken down to the street. Broken down to what it costs in its pure form.

Mr. JENSON. Roughly $280 million.

Mr. GIAIMO. Here we spend $150 million and all we get is about 10 percent.

Mr. MOORE. What implication do you draw from that?

Mr. GIAIMO. You are the witness. If you want the off-the-top-of-my-head conclusion, it is that many of our agencies are very ineffective. However, you are the witness, please proceed.

Mr. MOORE. I think the implication you might draw from that is if we merely spent $250 million to buy the operation out, we could do it. In fact, that is probably not a reasonable expectation. If we put $250 million to buy out the current supplies of heroin, another group of

suppliers would emerge and demand the same amount of money. There is a fairly large supply capability for heroin.

Mr. GIAIMO. How much are we spending to buy heroin?

Mr. JENSON. Our PEPI, which is for the purchase of evidence and payment for information, is about $7 million now.

I think there is another factor that has to be considered. The cost of drugs to society. Dr. Dupont was with us at a meeting in Caracas, an area coordinators' meeting last week, and he pointed out that today it is costing somewhere around $10 billion to the United States for the drug problem here, the cost to society. He estimates that without controls it would be drastically increased over that. So we are talking about billions of dollars.

I think when you are measuring what it costs in relation to the benefits, you have to consider factors other than merely what the heroin is valued at that comes into the United States.

Mr. GIAIMO. What bothers me is that for $150 million, it seems to me, we get a very minuscule result from our Federal agencies in this area.

Chairman PIKE. Mr. Dellums.

Mr. DELLUMS. Mr. Jenson, let me follow on your most recent response and ask you this question: Does spending millions of public dollars in purchasing narcotics, in any way in your estimation, encourage or otherwise subsidize the trade in narcotics in this country?

Mr. JENSON. That position has been advanced by some, but when you consider the actual value of the drugs that are sold on the streets, that is a relatively small part. A kilo of heroin, when broken down to the street level, is worth $1 million in some parts of the country, so really we are talking about a small part of the total amount of money that is spent in this country for drugs and therefore I do not consider it as subsidizing the drug traffic.

Mr. DELLUMS. You don't believe that in any way encouraged it?

Mr. JENSON. Absolutely in no way.

Mr. DELLUMS. Mr. Acree made a very definite statement with respect to the question whether anyone knows how heroin is being brought into this country. Your response was no.

I would like to ask Mr. Jenson if he agrees with that statement—that we do not know how heroin is brought into this country—and if you agree with the statement made by Mr. Acree I would like you to respond as to why.

Mr. JENSON. We do not know all of the methods employed to bring heroin into this country. We never have.

Mr. DELLUMS. Is the reason you don't know because we are involving ourselves with marihuana instead of the factor of intelligence?

Mr. JENSON. No, sir, that is not the problem at all. The problem is that we are dealing with traffickers who are making every effort to conceal the method that they are going to use to bring the drugs into the country. They are acting at great risk, both from possibly going to jail and from what it would cost them and their organizations, should their methods be discovered. So they are continually seeking out new methods, and they are working at this full time; and they have the benefit of knowing what they are going to do. And we have to try to determine what their plans are without the benefit of actually knowing what methods they have available to them.

Mr. DELLUMS. Let me, in my remaining time, move to another area. I have here two pictures that were given to me by a former employee of your agency. That employee alleges that these pictures show equipment given by a telephone company for the purposes of wiretapping.

Now, will you deny in open session that DEA carries out warrantless wiretaps or receives information from warrantless wiretaps?

Mr. JENSON. We do not carry out warrantless wiretaps and it is not with our knowledge if we receive any information that has been obtained by others without warrants.

Mr. DELLUMS. In 1973, allegations surfaced publicly regarding DEA involvement in warrantless wiretaps in Houston, Tex. There are internal DEA memos in early 1975 regarding the matter. My question: Why did it take until October 1975 for DEA to initiate an official investigation into warrantless wiretaps in Houston, Tex?

Mr. JENSON. The U.S. attorney was in charge of that and he was handling the investigation, sir.

Mr. DELLUMS. That is your answer to the question?

Mr. JENSON. He had control of that, yes, sir, the U.S. attorney.

Mr. DELLUMS. To your knowledge, has any official or employee of DEA or its predecessor agency ever discussed, considered, proposed, or otherwise developed any plan to create a unit of employees, agents, or outside contacts which would conduct extra-legal, officially unauthorized, illegal, or clandestine activities? If your answer is in the affirmative, would you please explain?

Mr. JENSON. To my knowledge there has never been any such activity, sir.

Mr. DELLUMS. Maybe we can go into that in executive session a little further.

The CIA has provided your agency employees with training in clandestine tradecraft. Can you explain the training and discuss whether it included electronic surveillance, surreptitious entry, and mail openings?

Mr. JENSON. To my knowledge it did not include any of those openings or surreptitious entry techniques.

Mr. DELLUMS. What about electronic surveillance? Never received training from the CIA regarding that?

Mr. JENSON. No, sir.

Mr. DELLUMS. The CIA has provided assistance to the agency, including providing CIA personnel to uncover internal corruption, tasking of a CIA proprietary to recruit and train agents, providing technological and operational assistance, including electric and photographic equipment, flash money, monitoring of telephones. Has all of this assistance ceased and if so, when and why?

Mr. JENSON. The assistance has ceased. That was, as I understand it, a one-shot operation where the CIA was requested to assist in our internal security operations, or our inspections office in the training of a number of agents that were to be later placed in our field installations to serve as a conduit to our inspection office in Washington. That is no longer in effect.

Chairman PIKE. The time of the gentleman has expired. Mr. Kasten.

Mr. KASTEN. Mr. Jenson, how much money which is spent buying narcotics—purchase of evidence—has been actually recovered in the last couple of years?

Mr. JENSON. Last year we expended roughly $4 million and we recovered somewhere in the neighborhood of $200,000 behind that. I might explain, however, that you cannot include the payment for information because that is money that obviously you cannot take away from the person that you paid it to.

As far as the purchase of evidence, in order to fully develop an investigation to climb the ladder, so to speak, to get beyond the person that you start with who may be at a lower echelon than the person you are targeting in on, that is the head of the organization, you must expend this money. You have to play the role of, in effect, a dope peddler.

Mr. KASTEN. I have figures in front of me that say in 1974 we spent $3,975,000 and got $160,000 back; that we spent, in 1975, $4,609,000 and got $182,000 back.

Now, this is payment for the purchase of evidence—less than 5 percent. Why is it that we are getting so few dollars back? I would assume this is supposed to be in the process of making convictions; is that right?

Mr. JENSON. The point that I just made is we cannot just buy from the person and turn around and arrest him at that point, and that is the only time—there are other times when a person does not dispose of the money right away and a few days later we arrest him and check to see if he has the money in his possession, which we then recover.

We have been accused by some of being a buy-bust operation. If we were, that figure would be changed because buy-bust means you give the money, take the drugs, and then immediately turn around, make an arrest and confiscate the money. This shows we do develop the cases as far up the chain as possible.

Mr. KASTEN. This also shows, in answer to the question of Mr. Dellums, that in fact for the difference between the $160,000 and $4 million you are subsidizing the drug industry, that you are trying to——

Mr. JENSON. Sir, that same person we are making the purchase from is probably dealing in, many, many times more, or in much greater quantities than what we are buying from them. So we are really a fraction of his clientele and that would account for very little of the subsidizing, in effect, of his operation.

Mr. KASTEN. I have a different line of questions, and I think it might be helpful if Mr. Warner, who is in the international inteligence, would join you in responding to the questions that may be important. I am not sure it is necessary.

But it is our understanding that DEA foreign operatives work directly under the State Department's Chief of Mission; is that correct?

Mr. WARNER. Yes, sir, it is.

Mr. KASTEN. In all cases?

Mr. WARNER. Except along the Mexican border—there is a 26-kilometer zone where agents stationed in the United States are authorized to operate.

Mr. KASTEN. Where agents stationed in California and Arizona operate with what kind of controls? What kind of records are kept as to where those agents enter, what they do, and how they leave?

What kind of records are kept by either State or DEA as to the actions of those agents?

Mr. WARNER. I think this is a question better answered by Mr. Jenson, who is responsible for the total——

Mr. KASTEN. Are any records kept of the operations of these agents in the 26-mile free area?

Mr. JENSON. Not as a separate type of record.

Mr. KASTEN. Have gun fights ever occurred with our agents in this free area?

Mr. JENSON. Yes.

Mr. KASTEN. Use of firearms. Could you describe under what circumstances these agents who are operating in a foreign country could be involved in gunfights?

Mr. JENSON. We are allowed by the Mexican Government to carry firearms in Mexico. This is not something that is in a formal agreement; it is just something that has been done over the years and is acceptable to them. It is a relatively dangerous area to operate.

Mr. KASTEN. You said this is acceptable to——

Mr. JENSON. The Mexican officials.

Mr. KASTEN. Have there been any complaints or questions about that acceptability?

Mr. JENSON. No.

Mr. KASTEN. Mr. Warner, in your opinion have there been any— I have some information from someone on this staff that if such conduct persists, DEA would be kicked out of these countries.

Mr. WARNER. No; I don't believe this is the case in Mexico. We certainly have full cooperation from the Mexican attorney general and the Federal Judicial Police in Mexico to operate in the 26-kilometer zone in cooperation, of course, with the Mexican authorities.

The chain of command is pretty rigid. The regional management in California, in Texas, or wherever the operation may be directed from, is knowledgeable about the operations that are being carried out by the agents and they operate under the restrictions in the use of firearms or anything else they undertake.

Mr. JOHNSON. I ask unanimous consent to yield 2 minutes of my time to the gentleman from Wisconsin.

Chairman PIKE. Without objection, the gentleman is recognized for 2 additional minutes.

Mr. KASTEN. You said you had controls, but you said no records are kept, by either State or DEA, as to the activities of our agents in this 26-mile free area.

Mr. JENSON. May I correct that? We said no separate records as such, but all of the official activity of our agents, when they are conducting an investigation, is recorded in our DEA–6, which is the standard report form, plus they are accountable to their immediate supervisor, a group supervisor or special agent in charge who is also accountable to higher chain of command.

So there are controls, both from that standpoint, and there are written reports as to their activity.

We have, basically two types of activity. One is intelligence type, passive type investigation, which is strictly like record checks, surveillance, where there are no arrests or any forcible action; and then

we have that type of activity which is also in conjunction with the host country, Mexico, or any other country.

Mr. KASTEN. In connection with the incident of the shoot-out—gunfights—in this 26-mile free area with the agents coming in from California, Arizona, it would seem to me that the incidence of this is very, very high and that it is not dealing with or it is not serving your purpose, which is to gather intelligence.

I mean you become kind of an arm of the Mexican police force here running around; but shouldn't you be doing the work with intelligence and not getting your agents involved with all these different kinds of gunfights? And isn't it a fact that in many of these cases we are dealing with people with marihuana in small operations?

Why don't you deal with intelligence and get out of the gunfight business?

Mr. JENSON. We are there at the invitation of the host country of Mexico. We assist them in those areas that they request us to.

Mr. KASTEN. You mean Mexico told you to get out of the intelligence business and into the gunfight business?

Mr. JENSON. No; but we have to assist them in areas that they want and need help in order for them to cooperate with us in these other areas which are important to us.

Mr. KASTEN. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman.

We have heard testimony from both Mr. Acree and Mr. Jenson here today, with whom I have had the pleasure of working in regard to this problem for many years, but both of you have testified that the cooperation between both your agencies has improved since June, I believe it was. Obviously we are talking about the departure of Mr. Bartels.

But as we sit here today I notice Mr. Dogin isn't here today—and I also know that presently in the White House there is a decision to replace Mr. Dogin and bring in a new head of the DEA.

We just had the new White House paper on drug abuse, and this is about the third or fourth paper we have had on that. We will probably go through another third or fourth reorganization before we get down to brass tacks. The brass tacks, gentlemen, in my estimation is that the State Department of the United States still refuses to recognize the international drug problem on a No. 1 priority basis.

Until that happens, until we are able to give support to Customs and DEA agents in these foreign countries, we are kidding ourselves.

We all know where the dope is grown. I have flown over the fields three or four times in different countries. The origin of these drugs is no secret. Mexico is No. 1 on the hit parade supplying us narcotics. There is a saying among your agents that once the poppy is incised or split open, the ball game is over. Your own estimates are that you get 10 or 15 percent of what is smuggled into this country. As soon as they grow poppies and they are incised and harvested, 80 to 85 percent is going to get into the United States.

People ask the question, how do drugs get in. They get in in as many ways as the imagination can think of. President Nixon kicked it around and made a political football out of it. Now President Ford is beginning to do the same. We got rid of Mr. Bartels, who never had a conference with Attorney General Levi. Tyler fired him for

endemic corruption. None of it has been proved. Maybe Bartels was a poor manager; I don't know. But there was no corruption.

The morale in both your agencies is way down because the State Department and the executive department made a football out of both your agencies, and it is continuing to do so.

As we sit here today, a fellow from Chicago is being interviewed to head the DEA agency, and we are going to get him confirmed in 1 month or 2. He will come in with his policies, if he knows anything about drug abuse.

Bensinger is not a lawyer. He has never been a prosecutor. He was a former candidate for sheriff in Cook County and lost.

They are bringing him in now, and we are going to start this whole process over.

Let's not kid each other. As far as your intelligence is concerned, we know it comes from the NSA or the CIA. I have been in South America when the CIA wasn't talking to Customs agents or DEA agents. They would only give them the crumbs off the table as far as intelligence is concerned. That is because the State Department hasn't made drug abuse the No. 1 priority.

Your agencies, both Customs and DEA, are ignored by the agencies and embassies around the world. In fact, they would like to keep you out because you are a pain in the rump to them since you ask embarrassing questions. You tell the host country who is involved in their own cabinets and among their officials.

We have members of foreign governments smuggling the stuff into this country. We all know about it. We have intelligence on it. But our State Department and Dr. Kissinger refuse to recognize drugs as an important problem.

We made a deal with Turkey, and the Turks welched on their words. They took millions of dollars. In 1971, their total income from exporting opium was $2.5 million. We made a deal for $35 million for them, and now more farmers are growing it than ever before in the history of Turkey.

Now Mexico is in the business. Not only is organized crime in the business but amateurs are bringing it across the border. I know your agents are dedicated people, and both you gentlemen have done fine jobs, but we all know how long we waited for helicopters in Mexico to fly over opium fields.

In Thailand in 1971, we made a deal with the Thais and delivered them helicopters from Vietnam, where we had hundreds of them. I think today the Thais have six helicopters and the rest of them went into North Vietnamese hands when they took over.

So it is really a joke until the executive department wants to get serious about drug enforcement and will turn over to you intelligence from the NSA and the CIA regarding the major traffickers. Until then, all you are going to be able to do is develop information based on your limited resources. We are talking about billions of dollars worth of money here in narcotics, but as we sit here today, the DEA is going through another round of waltz-me-around-again-Lucy with the new head of DEA coming in.

Mr. Chairman, believe me, I have been studying this since I have been in the Congress. I have been in every foreign country where narcotics originate. We get back to our old friend Dr. Kissinger today, who refuses to make narcotics the No. 1 priority.

We are worried about communism coming to this country but what we have here is worse than that. We have white heroin in our streets.

I know this is kind of a political speech, but I have written three or four reports about it, and I have had it up to my eyelids with this thing.

We know where the ball lies and in whose court it is. The executive branch is coming out with this new drug abuse paper that a kid in the sixth grade could write from references in libararies, and we are down again to a new head of the DEA, a losing candidate for sheriff in Cook County.

He may be a decent guy, and he is, but he doesn't know a damn thing about narcotics, and we are starting all over again.

Chairman PIKE. The time of the gentleman has expired but I would like to invite any of the three witnesses to comment on the perceptions that they just received, if they would care to do so.

Mr. ACREE. Would you care to?

Mr. JENSON. No.

Mr. ACREE. Mr. Pike, I would like to start my 39th year on Tuesday.

Chairman PIKE. Mr. Milford.

Mr. MILFORD. Thank you, Mr. Chairman.

Did I understand correctly that your recordkeeping of suspects and MOI, et cetera, is essentially a manual system?

Mr. JENSON. The original system, which dates back to the beginning of the Bureau of Narcotics in the early 1930's, was a manual system.

Since approximately 1968 or 1969, we have been developing this into a computerized system that we call NADDIS.

As we are able to do so, we are going back and capturing all of that data that is in the old manual files and placing that into the system.

For the present time we are doing that which is current, or that which is new material as opposed to the old material.

Mr. MILFORD. The first obvious question that comes to my mind is why you do not use the FBI or NCIC for all of your own suspect and MOI files. That system, as I understand it, has an extensive computer collection and distribution system which reaches into all but the very smallest police agencies. Why aren't you tied into that system?

Mr. JENSON. We are tied into it, but we need our own capability for our own purposes. The type of information they have included, while it is good, is not complete enough to meet our needs.

Mr. MILFORD. How does it differ, specifically?

Mr. JENSON. Well, theirs is more descriptive of the type of person, the criminal history, and that type of information; and ours is more related to his activity, associates, and so forth, and how he ties into the drug trafficking operations.

Mr. MILFORD. In my old police days, I used to see the same thing from NCIC. In other words, everything from alias, to associates, to any information they would have.

Mr. JENSON. As Mr. Warner points out, that file or the NCIC records relate to persons who are wanted or to stolen property and that type of thing, as opposed to intelligence files on individuals of interest or that possibly may be of interest, and that is the type of information that we need, and we have in our files.

Mr. MILFORD. Doesn't the FBI have a similar type of intelligence file?

Mr. JENSON. They have a manual system unless they have changed it in recent times. They are still using a manual system for their indexes.

Mr. MILFORD. I would like to address this to both Mr. Acree and Mr. Jenson. Do either of you feel that the effectiveness of your work or your agency's work has been hampered in any way by the Freedom of Information Act or the recent Privacy Act, and, if so, how?

Mr. Acree?

Mr. ACREE. So far as the Freedom of Information Act is concerned, sir, I don't believe so. So far as the Privacy Act, it is possible, and only time will tell, that it could cause some restrictions on the exchange of information which is available to us with other parties.

Mr. JENSON. From our standpoint, the major problem with the Freedom of Information Act has been the additional resources that were required, in the way of personnel in particular, to handle the requests—the numerous requests that come in for information under that provision. We were not provided additional positions to cover that, so we have, in effect, had to take it out of our operating units where we can least afford it for that purpose.

We have had some concern voiced by foreign governments as to the effects of the Privacy Act in providing us with information. They frequently are very concerned that the source might be disclosed, and we have not as yet been able to assess the full impact of that; but it is something that has been voiced as a concern and could possibly cause some problems for us in the future.

Mr. MILFORD. In that respect, on page 6 of your statement you spoke about a quarterly publication of intelligence trends which provides an overview of drug availability, worldwide in scope, that is designed to provide a strategic analysis of national and international narcotics and dangerous drug production, distribution, and projections and that will serve as a basis for sound national decisions on the targeting of drug enforcement resources.

Is that a document that anyone can obtain?

Mr. JENSON. No, sir; that document is furnished, for example, to the Customs Service. It is a classified document and could not be made available to just anyone.

Mr. MILFORD. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Johnson.

Mr. JOHNSON. Mr. Chairman, I didn't realize that Dr. Kissinger was an unwitting accomplice to the international drug trade, but I didn't know the State Department was so much involved in the enforcement of the situation, and the statement of Mr. Murphy, I felt, was uncharacteristic of him.

Generally on this committee I felt we were trying to get information.

Mr. MURPHY. Would the gentleman yield since he used my name?

Mr. JOHNSON. Sure.

Mr. MURPHY. What I am referring to—I don't know how much the gentleman knows about this—but what I am referring to is that none of these agents, either in the Customs, when they used to have overseas intelligence responsibilities, or the DEA agents, can operate within

the embassies without the approval of the ambassadors. Approval comes from the head of the State Department.

Mr. JOHNSON. Is there a need for change in the legislation? Is there need for more money? What is the congressional oversight function?

Mr. MURPHY. There is no need for any change in legislation. The only need for change is in the mind of the head of our foreign Embassies. We must let these men do their work when they are overseas. They are hamstrung. When a congressional delegation goes over there, they are told not to talk to us in certain instances. There are cables back every night about our activities, who we talked to, and what we were up to.

Mr. JOHNSON. Does the gentleman have specific knowledge of this? I didn't understand they were working for the State Department.

Mr. MURPHY. The gentleman has written a number of reports. He names people by name, he names people at AID, and names the Secretary in a number of instances. I will send them over to your office.

Mr. JOHNSON. Perhaps they should be included in the report.

Chairman PIKE. We may be getting a little out of the jurisdiction of this committee which essentially is intelligence. I think there is a valid concern about the capability of these agencies to operate, but I am not sure that it comes within our jurisdiction.

If the gentleman from Colorado would like to have Mr. Murphy's prior reports made a part of our own report, I think we can consider that when we get ready to write up our report. I am sure the gentleman from Illinois would be happy to have the gentleman from Colorado make that motion.

Mr. JOHNSON. I think it should be considered because that is totally different from the evidence that has come from across the table. These gentlemen haven't confirmed or denied or made any comment on it one way or the other. If that is the case, it should be confirmed. They have evidentally taken the fifth amendment when asked to affirm or deny.

Chairman PIKE. I think that is even a more unfair characterization of their conduct.

Mr. WARNER. It should not be up to us to speak for the State Department but I would like to point out that over the years the support given to DEA, and I am sure the Customs Service, has improved tremendously. In the person of Ambassador Vance, who is the Chairman of the Cabinet Committee on International Narcotic Control, each country involved in the international traffic—either as a producer or transit country—is receiving the necessary attention.

There are sufficient resources available to give to countries that are in the international traffic and are willing to utilize these resources in the interdiction of the traffic.

It would be remiss for us, I believe, to sit moot here and not indicate the Department of State has been cooperative over the last years.

Chairman PIKE. Mr. Lehman.

Mr. LEHMAN. Let's get back from the international scene, and get down to the local scene in south Florida. To paraphrase Gertrude Stein who said a rose is a rose is a rose is a rose, in south Florida, heroin is crime, is crime.

It is obvious either the inadequate intelligence or inadequate enforcement—not only as it relates to the heroin problem in south Florida but overall—has tended to increase the criminal activities there.

According to the Human Resources Department of Dade County, 60 percent of all the felony arrests in Dade County are heroin users; 25 percent of the people that are arrested for felonies in Dade County are actually under the influence of heroin at the time of their arrest. In addition, these heroin users are causing us not only violent crime, but in property crime in Dade County, $40 million worth of losses.

Now, the inadequate implementation of your program obviously causes a lot of things besides drug usage. This is despite the fact that in Miami you have the third largest DEA office in the country, you have 93 criminal investigators, and you have spent in Miami, alone, $589,000 in the first 9 months of this year buying intelligence information and making purchases.

Now, the result of all this has been that you made 42 arrests for heroin this year in Miami and this is only 12 percent of your total arrests. Breaking it down, roughly, this looks like about $100,000 per arrest for heroin based on the whole operation in Miami.

I have a question for Mr. Moore. What would you suggest we do in order to get the show on the road in Miami? My question for Mr. Jenson is, how do you account for the fact that the real problem in Miami is heroin and yet only 12 percent of your arrests in Miami for drugs are in heroin? I read in the papers in Miami about the tons of marihuana you are getting on boats and the burning of tons of marihuana, with television cameras on it and so forth.

It seems like you are not dealing with it in the right way, and because of this not only has drug abuse increased, but crime itself. That is the spinoff from the halfway measures we seem to take in Miami.

I will yield back the rest of my time to Mr. Murphy after the question has been answered.

Mr. MOORE. I think both DEA and the Domestic Council white paper on drug abuse would agree with one of your recommendations; namely that we focus our enforcement energies on drugs that have the largest social consequences, and that probably means having heroin be the No. 1 priority.

I think that is a well-established principle which we would all be willing to endorse.

I think I would like to aline myself with that recommendation and say we should concentrate on heroin in south Florida.

Mr. JENSON. Sir, as far as the activity of the DEA in the Miami regional office is concerned, the bulk of the activity there concerns cocaine because cocaine has now become the No. 1 drug passing through Miami to other parts of the United States. Heroin itself is generally flowing from another direction—from cities such as New York—and our activity is concentrated there to eliminate the source as opposed to dealing with it at a lower level which would be found in Miami.

The trend has changed drastically from what we saw a few years back in the early seventies. Miami was then a major point of entry for——

Mr. LEHMAN. But cocaine users are not the criminal element and that is what I am trying to get at. The people arrested for felonies in Miami are not cocaine users. They are heroine users, and that is what costs us money in Miami.

Mr. JENSON. Yet I go back to the point, sir, that the source is where we are working and the source has been identified as other cities in the United States for the heroin that comes into the Miami area.

In other words, arrests that are made in New York have a greater impact because of the people being higher in the chain of distribution than those persons that are distributing on the streets of Miami.

Mr. LEHMAN. Thank you, Mr. Chairman.

Mr. MURPHY. Mr. Chairman, may I have unanimous consent to have 1 minute of time?

Chairman PIKE. Without objection.

Mr. MURPHY. To answer Mr. Johnson's question—I appreciate why he asked the question, but getting back to Mr. Warner, what happened to Jack Cusack down in Marseilles when Marseilles was the No. 1 laboratory for heroin? He got sacked, right—sent back to the United States? I know you have job security in mind and Mr. Acree said he would like to start his 39th year.

Chairman PIKE. I have no problem with that.

Mr. MURPHY. You had some fellows moved out of Laos when I was there and they came back to the United States.

How long did they wait for the helicopters in Thailand? Over 4 years. Thailand broke their agreement with the United States because we weren't coming forward with the goods we promised them.

How many agents were moved out of Vietnam for giving Congressman Bob Steele, a Republican, and myself the information about drug abuse among our soldiers in Vietnam. The record is replete with agents both in Customs and DEA being moved because of cooperation with congressional investigating teams going overseas on oversight.

Any other implication is misleading the American public. You know that, Mr. Warner, and I know it.

Mr. WARNER. Mr. Chairman, I really believe if this is a path of inquiry by this committee, the Department of State should be invited to respond to specific questions that are really within its jurisdiction.

Chairman PIKE. I think you might well be right. We sometimes have certain difficulty getting the responses we are looking for from the Department of State, but you might well be right.

Mr. McClory.

Mr. MCCLORY. Mr. Chairman, I wanted to yield at least 2 or 3 minutes to my colleague from Illinois, Mr. Murphy. I know he has done extensive investigative work on his own with respect to the subject. He might be able to ask questions better than I.

I am particularly interested in what has been reported to me as a breakdown and confusion concerning good, solid intelligence with regard to drug traffic. I would like to yield to Mr. Murphy for 3 minutes.

Mr. MURPHY. I thank my colleague from Illinois.

You are right, Mr. Warner, We are off the track when we bring in the State Department, but my point is my colleagues are asking questions about both your agencies' performances. We have to get down to the nub of the problem. We have DEA and Customs relying on the

ability of CIA, which was electronically surveilling known traffickers in these foreign countries. Then the CIA would hand over the intelligence to these agencies.

Cooperation in the beginning was bad. It is getting better, but it is still not at the point where we really have an all-out epidemic on our hands with this stuff. We are not going to make headway in this thing until we start getting full cooperation from the NSA and CIA.

It is no secret that NSA and CIA are the major gatherers of intelligence and until they turn intelligence over to the Customs or DEA agents, your agents are hamstrung. Is that correct?

Mr. WARNER. Mr. Murphy, I agree that we could use additional sources of information, there is no question about it. But, on the other hand, we are a law enforcement agency, responsible to prosecute the defendants we identify and arrest, in U.S. courts, or see that they are brought to prosecution in another country.

For these purposes, electronic surveillance, as an example, is very strictly circumscribed and we have to operate and want to operate and do operate within the provisions of the U.S. law.

The methods used by, let us say, CIA or NSA that you refer to in obtaining information through electronic surveillance may at one time negate the prosecution that has been undertaken in the U.S. courts.

Mr. MURPHY. We are aware of what tainted evidence means, and I appreciate your problem, but without that information you can't even start an investigation.

Mr. WARNER. We are getting some very excellent information from CIA on a continuing basis, especially in countries where we have no direct access, countries where we are not stationed, where we have no DEA personnel stationed, or in countries where there is a considerable insurgency going on that precludes us from having our personnel in there.

Mr. MURPHY. That same information we refer to as tainted may be a barrier to a successful prosecution. It is very helpful to Customs if, for instance, they knew a ship was leaving Colombia, or Peru, and it was loaded with cocaine or heroin coming up from South America or Mexico. Not that you have any prosecution value, but you seize the quantity of heroin and cocaine aboard that vessel. In the end, it is less heroin and less cocaine reaching the streets of America.

It may not end in ultimate prosecution. Let's face it. We all know who we usually end up catching, and that is who is known in your trade as the "mules." They are the bums who get $1,000 or $2,000. The real financiers are never near the stuff.

Chairman PIKE. The time of the gentleman has expired.

Mr. McClory.

Mr. MCCLORY. I am glad to know about the progress, and I am happy to have this additional information brought out through the questioning of my colleague, Mr. Murphy. I just hope that all efforts at self-sufficiency, autonomy, or vanity, or whatever is involved in a failure to effect good liaison and good lines of communication, as far as intelligence is concerned, will be submerged in an effort to get the overall results that must be attained in cutting down or eliminating to the extent possible the large scale of traffic in hard drugs.

Thank you, Mr. Chairman.

Chairman PIKE. Mr. Field.

Mr. FIELD. Thank you, Mr. Chairman.

I have questions along one line in particular, and that is the issue of whether intelligence should be given priority over enforcement activities in the drug enforcement program, and how effectively it is presently operating.

Mr. Moore, would it be fair to say that intelligence is the handmaiden of enforcement in the drug enforcement program? If that is so, would those programs be more effective if they concentrated more heavily on intelligence—in serving agencies such as Customs—than on arrests? What would your comments be on that?

Mr. MOORE. I do not exactly know what you mean by the handmaiden of enforcement.

Mr. FIELD. That enforcement has priority over intelligence.

Mr. MOORE. I think one of the problems that the Administrator of DEA has to face over the next several years is developing the professional intelligence capability within the organization.

Now he has a better leg up on that than he had 2 years ago, but I think that will be a difficult developmental problem for all the reasons I indicated in my opening statement. I think there probably is a strong justification for having intelligence be a larger share of DEA total activity than in the past, but whether it should go from 10 percent to 20 percent to 50 percent, I think experimentation will have to determine.

Mr. FIELD. Would it be more effective if we spent more time and effort on intelligence and finding out how this network of drugs and drug traffic works than in trying to make arrests which could be a never-ending process?

Mr. MOORE. I pointed this out in my opening statement—that when we talk about developing the intelligence program inside DEA, what we are talking about is not really increasing intelligence collection because our assumption is we have pretty good procedures for collecting intelligence at this time. Those procedures are largely the activities of the enforcement agents. Their debriefing of informants and things like that.

We are making an investment in the improved capacity to analyze and disseminate information.

Arrests, which you describe as a never-ending process, and not necessarily productive, are the source of most intelligence. That is, how would you get intelligence in the area other than by making arrests and debriefing people who are now known to be intimately involved in the trade and have some leverage to get some information?

In other words, when we are talking about intelligence programing by DEA, we are talking about increasing analysis and dissemination. We are not necessarily talking about increased collections.

Collection through arrest is one of the principal collecting instruments DEA has available to it. It is a little bit more complicated than you really describe.

Mr. FIELD. Mr. Jenson, would you care to comment? What I am thinking about is this: Might we not be more effective if, instead of going around engaging in shootouts in Mexico, as Mr. Kasten pointed out, we concentrated on an analysis of intelligence—whether it be from arrests or otherwise—giving that information to Customs so they can

be more effective in knowing how these drugs come in and better able to interdict it? Would you care to comment?

Mr. JENSON. There haven't been that many shootouts, so called. It is an exception when that occurs.

I think DEA has shown the importance it places on the intelligence function by the very appointment of the senior official. His predecessor was a senior official. Very experienced in all areas of the operations of the DEA. There was some resistance to this program when it was first brought into being, because there was to some degree a lack of understanding, and as Dr. Moore pointed out, there was a feeling that the agent himself is performing that function that somebody else now may try to take away from him—may infringe on him.

That has been pretty well done away with. There is now an acceptance. As a matter of fact, the regional directors are now asking for intelligence specialists as opposed to agent personnel to help build their staff.

Mr. FIELD. How about career incentives? Are there career opportunities in the intelligence side of DEA?

Mr. JENSON. There was a regional director vacancy that occurred, and intelligence personnel were invited to apply for that position, as well as with the investigators.

It shows we are looking at them in the same way we are looking at the 1811's to fill the higher level management positions in the organization.

Mr. MOORE. I think that is one of the instruments that you want to use to create a professional intelligence program inside DEA. I think you have to develop a personnel system to support the profession that includes careful recruitment, selection, training, and evaluations.

I think you need that in order to have it be a vital and live activity inside DEA.

Chairman PIKE. The committee has gone around one time. We now have a quorum call. We haven't enough members present to vote to go into executive session under any circumstances. Frankly, I think you gentlemen have all been very forthcoming with the committee. We do have rather highly classified information in the back of our briefing books, and I don't see much sense in trying to have an executive session. There have been some somewhat wild schemes proposed in the past, which we gather never got carried out, and I don't see much sense in whipping them.

I would like to ask just one question on the subject of justification, and then I am going to yield to Mr. Dellums.

I have read this GAO report. There are things in it which are classified confidential. It seems to me that the things in it which are classified confidential have no real need to be classified in any manner, other than the fact that they do detail some past lack of cooperation between the various agencies. I know you are both familiar with the GAO report. Is there any reason why that confidential label should be kept on that GAO report?

Mr. JENSON. Mr. Warner advises me that classification was placed on there at the request of some other agencies, not the DEA.

Chairman PIKE. Was it classified at the request of the Customs Bureau?

Mr. ACREE. It was not.

Chairman PIKE. Mr. Warner, who directed that it be classified.

Mr. WARNER. I believe it was classified upon the request of the Central Intelligence Agency. I have no personal knowledge of it, Mr. Chairman. DEA did not request it.

Chairman PIKE. May I get from each of you who are immediately involved a statement that as far as you are concerned there is no reason for it to be classified?

Mr. JENSON. As far as DEA is concerned, there is no reason.

Mr. ACREE. I share that, Mr. Chairman.

Chairman PIKE. Mr. Dellums.

Mr. DELLUMS. Mr. Jenson, have the drug enforcement agencies ever provided any assistance to Robert Vesco?

Mr. JENSON. No, sir.

Mr. DELLUMS. None whatsoever?

Mr. JENSON. No, sir.

Mr. DELLUMS. Mr. Chairman, I have several other questions. Will there be at some point in the future a chance to discuss with the gentleman before us some of these questions in executive session?

Chairman PIKE. The only honest answer I can give you, Mr. Dellums, is probably not. However, I believe they will be most cooperative—they have been most cooperative with the staff. If you have any particular questions that you want answered, I believe they will agree to answer them on a confidential basis.

Mr. JENSON. We will be happy to.

Mr. DELLUMS. I think we would all agree that, given its nature, your business—both in terms of gathering of intelligence and in terms of enforcement—often has potential for corruption. How many DEA employees have been fired or otherwise dealt with because of corruption?

Mr. JENSON. We will have to furnish that.

[The information follows:]

All allegations of corruption are thoroughly investigated by DEA's Internal Security Division, formerly Office of Inspection. Since July 1, 1973, the Drug Enforcement Administration has removed one employee for corruption, that is, indictment for distribution and conspiracy to distribute marihuana. However, an additional 22 DEA employees were removed for various types of misconduct or unsatisfactory performance. Sixteen of these removals were terminated during their probationary period.

Mr. DELLUMS. How large is the Internal Security Division that deals with corruption in your agency?

Mr. JENSON. We have 36 full-time employees and other personnel are drawn upon from throughout the organization for any kind of special type need. We separated the field evaluation program from that unit so that they could devote full time to that particular program.

Mr. DELLUMS. Mr. Jenson, are you familiar with the corporation, Intertel?

Mr. JENSON. I am familiar with the name. I am familiar with the organization to some degree.

Mr. DELLUMS. Would you describe Operation Croupier, and Silver Dollar and the relationship of DEA officers, Intertel, and Mr. Howard Hughes?

Mr. JENSON. I am not that familiar with Croupier. Mr. Phil Smith who handled that is with us. With regard to Operation Silver Dollar,

that was a special technique type undercover approach that was utilized in an effort to develop cases against some very significant drug traffickers that were operating in a gambling casino in Las Vegas.

The approach utilized, through the cooperation of Intertel, was to have two of our agents pose as big time gamblers and meet, through an informant, these individuals we were desirous of making a case against. In order for our agents to be able to do this, they had to show that they were able to handle large sums of money; that they were big, in effect, wheeler-dealers, and it was arranged to have chits from the house provided to these agents that would be used at the gambling tables, to be lost there, not for the purpose of actually—actually one of the conditions was that this money would have to be actually used. In other words, they couldn't go out from there winning.

This worked very well. It did impress the defendants—the persons who later became defendants—in this case, and we were successful in pursuing the case.

This has been thoroughly investigated, following some allegations that there might have been some irregularities in this. It has been investigated both by our own internal staff and by the external organizations, and there was absolutely nothing improper in any way in the operation of this Silver Dollar.

Mr. DELLUMS. Operation Croupier—is there someone here who can speak to that?

Mr. JENSON. Yes, Mr. Smith.

Mr. SMITH. Mr. Dellums, Operation Croupier was an intelligence probe into the Caribbean area. We hoped at that point to make a penetration undercover into a group of croupiers and then expand out to other casinos in the Caribbean area for intelligence-gathering purposes.

Mr. DELLUMS. Can you explain the relationship between DEA, Intertel——

Mr. SMITH. There is no relationship——

Mr. DELLUMS [continuing]. And Mr. Howard Hughes?

Mr. SMITH [continuing]. Between DEA, Intertel or Mr. Howard Hughes. The principal officers of Intertel are former high-level Justice Department officials and high-level officials of other agencies who have retired. They offered to assist us in this particular operation, as they did in Silver Dollar, but there is no relationship officially with the Intertel organization or with Howard Hughes.

Mr. DELLUMS. Just two additional questions.

Mr. Jenson, the press has often written about the "buy and bust" statistics program of DEA and that the overwhelming majority of those arrests occur at a very, very, low level. Would you comment on that?

My final question, couched in slightly different terms but essentially going in the same direction to Dr. Moore, would be this: Is the relationship between DEA enforcement costs on the one hand and intelligence-gathering costs on the other hand indicative of the fact that the propensities of DEA are toward street-level figures rather than intelligence-gathering efforts at the international level to cut off the traffic in drugs?

Mr. JENSON. DEA and predecessor organizations have always concentrated on the highest level trafficker. In order to assure that this

happened—that this is the area in which we concentrate our efforts—we devised a system of rating defendants. This is our own system. It is a management control system, unique in law enforcement, which has provided DEA management with a measurement system to insure this high-level concentrated activity.

The "buy-bust" situation does not exist. That is a technique I might say. There are times when it is expedient for a variety of reasons—to purchase evidence and immediately arrest the defendant. In cases where it may involve large sums of money, where we may have to expend $200,000 to $300,000, even up to $1 million, obviously we cannot purchase that and in effect let that money walk away from us, lose that. We need that money to continue our day-to-day operations.

Mr. DELLUMS. Is it true that only 5 percent of the money that you use to buy narcotics is recovered by your agencies? That in effect you lose 95 percent of the public money that you use to purchase hard narcotics?

Mr. JENSON. It is a high percent, and that again is proof of the fact that we are not a buy-bust organization. We have to spend the money in order to develop a case beyond that one-shot deal, which frequently involves a lower member of the organization—a lower-level trafficker. We try to penetrate the organization at the highest level possible, but it is more difficult to penetrate at a higher level than it is at a lower level, because there are more people at this level for one thing. Usually these people are not quite as insulated as they are as they get higher in the organization.

So you penetrate at the highest level. The way to get up to the upper level is to purchase from this individual; and by making a purchase, letting it go through, he believes that your undercover agent is a legitimate dope peddler so he can then come back, and he will introduce him to the higher chain, and it goes on up the chain.

Mr. DELLUMS. I would like to briefly state to the ranking minority person of the committee, as soon as Dr. Moore responds to the question I will adjourn the committee until 10 tomorrow morning if you want to make the quorum call.

Mr. MCCLORY. It was my understanding additional questions would be supplied by the staff. I didn't think it would be well to continue.

Mr. DELLUMS. The chairman yielded time to me and I reserve the right to exercise the utilization of that time. I have asked a final question of Dr. Moore and I will adjourn the committee until 10 in the morning. This is not classified information, it is a straight-out question to the distinguished doctor who is bright enough and intellectual enough to answer the question.

Mr. MCCLORY. I will stay here.

Mr. MOORE. Suppose you take the fact that we like the strategy directed at immobilizing major drug distributors. We like this strategy for two reasons. We like to immobilize a man who represents a certain fraction of the supply capability. Another equally important reason is that his experience will deter others and force others in their trade to become more cautious. The deterrence has an additional reducing effect on the total amount of drugs coming through the country. That is the reason we want to immobilize major traffickers.

You can think of the particular process of achieving that objective as a two-step process. First you have to penetrate those organizations. That is, you have to get some source of information or intelligence about who is involved. Now, some fraction of that comes from volunteers and paid informants. But probably most of that information comes from defendant informants. This means in most cases you have to start cases against major international traffickers with a defendant, somebody who is arrested and willing to testify.

There are lots of different ways of making those penetrations. DEA makes some of the penetrations through its own undercover operations. Bureau of Customs makes a large number of penetrations as well. We also rely on State and local agencies to produce these penetrations. Those three things taken together produce a large number of defendants, all of whom have some chance of both being willing and able to facilitate an investigation against a major trafficker.

That is the penetration phase.

The development phase can go through one of two techniques. One which was already described by Mr. Jenson is the undercover approach. The other is an approach in which you would try to get a conspiracy charge against the major trafficker largely by taking down the testimony of the defendant corroborating that testimony with documentary records and taking him to court.

Notice that, because you need those penetrations and because only a small fraction of them will yield a return in terms of a major case, that at any given moment the fraction of DEA cases that involve low-level violators will apparently be large. That is not as important as knowing the absolute number of high-level traffickers that we are able to immobilize.

I just think that is an important analytic point you have to understand when looking at the record of DEA's performance.

Now, then, the question is, where does intelligence fit into our capability to develop these cases, given a penetration. I think the point I have emphasized there is that a large amount of the capability existed in the standard enforcement system. That is, in the combination of records available to agents in their case files, the NADDIS system and the Federal telephone system.

DEA attempts to experiment with the substantially larger investment in the intelligence analysis and production portion of the intelligence function, to see whether we can't increase the frequency with which penetration can be turned into successful leads to develop a case against major traffickers.

I don't think anyone knows at this stage exactly what fraction of DEA's resources should be devoted to that activity. The thing to be engaged in is a development program by which, through a series of successive investments in intelligence, we discover how the absolute number of cases against major traffickers increases over time.

Mr. DELLUMS. Thank you. I will say to the doctor that that is the most thorough answer to a question that I have ever received since I have been on this committee.

May I, on behalf of the Chair and members of the committee, say to all the gentlemen who have appeared before us today that we thank you for your testimony and cooperation in response to our questions.

The committee will stand in recess until 10 tomorrow morning for the purpose of taking action on subpenas issued last week.

[Whereupon, at 12:40 p.m., the committee was recessed, to reconvene at 10 a.m., Friday, November 14, 1975.]

FBI DOMESTIC INTELLIGENCE PROGRAMS

TUESDAY, NOVEMBER 18, 1975

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m. in room 2154, Rayburn House Office Building, Hon. Otis G. Pike [chairman], presiding.

Present: Representatives Pike, Stanton, Dellums, Murphy, Milford, Hayes, Lehman, McClory, Treen, Johnson, and Kasten.

Also present: A. Searle Field, staff director; Aaron B. Donner, general counsel; James B. F. Oliphant, counsel; Richard S. Veremeire, counsel; John M. Atkisson, counsel; Peter L. Hughes III, counsel; and Ellen S. Miller, investigator.

Chairman PIKE. The committee will come to order.

Today we have a rather interesting hearing in the realm of risk.

We are interested, all of us, of course, in preserving our national security. One of the agencies greatly responsible for that is the Federal Bureau of Investigation. In the course of doing so, the role of Government sometimes lays a rather heavy hand on the lives of citizens. So what we are going to be looking at today is what the FBI does, what its role is.

Then we will be looking at some of the people whose lives it has touched. We have a large number of witnesses today: Mr. James B. Adams, the Assistant to the Director of the FBI, and Mr. W. Raymond Wannall, the Assistant Director for FBI Intelligence, will be the FBI witnesses. I propose we get the FBI testimony first and ask them any questions that we wish to about the FBI. We will probably not complete any more than that in the morning session.

In the afternoon, I propose we go to some of the testimony from the individuals. I would simply ask that the FBI people do stay around during the afternoon session so that in the event they want to offer any rebuttal or in the event that other questions arise which should be addressed to them, that would be possible. Is that a reasonable request?

Mr. ADAMS. We do have one problem. We have testimony scheduled all day tomorrow before the Senate, and both of these coming so close together does put somewhat of a burden on us in preparing for both. I think we can work something out where we will have someone available.

Chairman PIKE. I would simply request that somebody responsible and knowledgeable from the FBI be here this afternoon in order to respond to the questions of the members, and if they desire, to the statements of the other witnesses which will be made available to you.

Mr. McCLORY. Will the chairman yield?

Chairman PIKE. Certainly, Mr. McClory.

Mr. McCLORY. I want to state, Mr. Chairman, that I certainly welcome the testimony we are to receive here from the FBI, and from the others that are scheduled to appear before the committee, and to also state very affirmatively that in my opinion we have a great Federal Bureau of Investigation which does an extremely important job for us. While we may be touching upon some abuses or excesses in the course of this hearing, I don't want that to be interpreted as any diminution of my respect for this law enforcement agency.

I do want to say, too, that I feel that the staff has put together a very important bit of testimony here this morning and has organized a very good hearing for us. I have encouraged this. I have wanted it. It has taken a little while to schedule it. But I welcome a review of this aspect of our intelligence activity and hope that out of it we can—in this area as well as other areas of the intelligence activity—find some means by which we can improve the efficiency, the effectiveness, the coordination, and other aspects of the entire intelligence community for the benefit of our Nation.

Thank you very much.

Chairman PIKE. The FBI statement will be presented by Mr. James B. Adams. You may proceed.

STATEMENT OF JAMES B. ADAMS, ASSISTANT TO THE DIRECTOR, FBI, ACCOMPANIED BY W. RAYMOND WANNALL, ASSISTANT DIRECTOR, FBI INTELLIGENCE DIVISION; R. L. SHACKELFORD, SECTION CHIEF; DAVID RYAN, SPECIAL AGENT, AND HUGH MALLET, SPECIAL AGENT

Mr. ADAMS. Mr. Chairman and members of the committee: I appreciate the opportunity to appear before you today to discuss the FBI's domestic intelligence responsibilities.

I think that it would be appropriate for me to begin my presentation by outlining in general terms the purposes of FBI domestic intelligence investigations. To add the historical perspective necessary to fully understand the FBI's role in this field over the years, I will briefly describe for you the circumstances under which the FBI was assigned its present domestic intelligence responsibilities and how the Bureau, in response to ever-changing threats to internal security, has fulfilled these responsibilities.

It must be recognized that the FBI's domestic intelligence function, as it exists today, derives from the Attorney General's dual responsibility to enforce congressional enactments and perform other duties which have been delegated to him by the President. These other duties include rendering policy recommendations to the President with respect to matters affecting internal security, administering aspects of the Government's employee security program, and making determinations relative to the deployment of the military by the President, should such action be necessary to quell civil disturbances.

Because the FBI's investigative responsibilities follow the contours of those entrusted to the Attorney General, the Bureau's domestic intelligence investigations are, of necessity, broader than investigations strictly designed to collect evidence for criminal proceedings. The

FBI's domestic intelligence responsibilities have a distinct anticipatory, or preventive, purpose, requiring continuing investigative activity in cases wherein criminal conduct remains a future possibility.

Thus, the objective of FBI domestic intelligence investigations is to obtain information concerning activities which are intended to undermine or overthrow the Government of the United States, incite domestic violence or rioting, or deprive individuals of their civil rights. The FBI investigates these threats to domestic security both to develop evidence for legal proceedings and to provide the Attorney General with information upon which to make assessment and policy recommendations pertaining to specific, nonpenal aspects of the Nation's domestic security program which are administered by the Department of Justice.

The FBI's domestic intelligence function today has its origin in instructions issued by President Franklin D. Roosevelt as early as 1934.

On May 8, 1934, President Roosevelt ordered the FBI to conduct an intelligence-type investigation to determine whether there was a connection between the Nazi movement in the United States and German diplomatic and other official repersentatives in this country. This investigation of the Nazi movement was conducted along the specified guidelines set by the President and was not expanded to include other groups or movements.

However, on August 24 and August 25, 1936, President Roosevelt instructed former FBI Director J. Edgar Hoover to obtain what Mr. Hoover characterized as "general intelligence information" concerning "subversive activities in the United States, particularly Fascism and Communism."

In response to President Roosevelt's request, FBI Director Hoover issued instructions for the development of an investigative program which would be responsive to the requirement imposed upon the Bureau by the President. The investigative program undertaken by the FBI pursuant to these instructions is being continued today in accordance with directives embodied in title 28, Code of Federal Regulations, section 0.85, which sets forth the general functions of the FBI.

By 1938, the FBI had developed the broad outlines of a domestic intelligence investigative program to fulfill the President's request for information about subversive activities in the United States. By letter, dated October 20, 1938, then Attorney General Homer Cummings forwarded to President Roosevelt a memorandum from FBI Director Hoover, outlining how the President's 1936 instructions were being implemented by the Bureau.

At this time, President Roosevelt was informed that the FBI was investigating subversive activities and that the results of its investigations were being broken down for ready reference by subject matter, including, "maritime; government; industry (steel, automobile, coal mining, and miscellaneous); general strike; armed forces; educational institutions; Fascisti; Nazi; organized labor; Negroes, youth; strikes; newspaper field; and miscellaneous."

On November 2, 1938, President Roosevelt advised that he approved of Director Hoover's plan. The investigative program in the field of domestic intelligence which President Roosevelt had instructed the FBI to begin in 1936, and the general scope of which he approved in 1938, was reaffirmed in subsequent years by succeeding Presidents.

Almost from its inception, the FBI's domestic intelligence role was recognized as a functional element in the overall U.S. national security effort, and appropriate mechanisms were devised to integrate the FBI's investigations in this field with the activities of the military services. Pursuant to a Presidential directive, dated June 26, 1969, the Interdepartmental Intelligence Conference was formed as an independent committee with FBI Director Hoover as its chairman. The purpose of the Interdepartmental Intelligence Conference was to coordinate the FBI's foreign and domestic security investigations with the activities of the military intelligence agencies and to facilitate the exchange of information of mutual interest.

When the Congress established the National Security Council to achieve national policy-level coordination of U.S. security programs, overall policy supervision of intelligence investigations conducted by the FBI as a member agency of the Interdepartmental Intelligence Conference was transferred to the National Security Council.

The National Security Council retained policy-level supervisory responsibility for FBI domestic intelligence programs until President Kennedy ordered this responsibility transferred to the office of the Attorney General, where it has remained since 1964.

With the historical origins of the FBI's domestic intelligence responsibilities in mind, let us review how the FBI has fulfilled these responsibilities over the years in response to ever-changing threats to the domestic security of the United States.

Between 1936 and 1938, as the FBI moved to develop a domestic intelligence investigative program in response to the President's 1936 instructions, the world situation steadily worsened as Adolf Hitler rose to power in Germany, Italy turned to Fascism, and Japan moved toward an expansionist policy in the Pacific. In the United States concern was growing over the danger of potential espionage, sabotage, and subversion.

In 1940, the Congress passed the Smith Act, which was directed against Communist subversion. During World War II, of course, the main priorities of the FBI were directed toward thwarting espionage and sabotage efforts intended to undermine the war effort.

After World War II, as the Iron Curtain descended across Europe and the wartime alliance with the Soviet Union changed to cold war, the problem of domestic communism became of grave concern to the American people. Passage of the Labor-Management Relations Act of 1947, the Internal Security Act of 1950, and the Communist Control Act of 1954, represented congressional expressions of this concern.

The FBI reacted too, and the Bureau's investigation of Communist activity in this country led to the exposure of the conspiratorial nature of international communism.

The decade of the 1950's brought new threats to our free society as night riders of the Ku Klux Klan sought to terrorize citizens through bombings, burnings, and other acts of violence.

As the Klan's threat to the national welfare grew to a general pattern of organized violence, the FBI moved to provide all-out assistance, including close checks on the activities of Klan members suspected of involvement in criminal activities.

The FBI's intensive investigation of the activities of the Ku Klux Klan echoed the strong determination of our Nation's elected repre-

sentatives to oppose the type of discrimination that the Klan practiced in its most violent form. During this period Congress enacted the Civil Rights Acts of 1948, 1964, and 1968.

The 1960's brought other forms of threats to the Nation to which both the FBI and the Congress reacted. Rioting in our cities was described as the most difficult intelligence problem in the Department of Justice by the Attorney General in 1968. Congress responded to this wave of violence in that year with the passage of antiriot laws. The President of the United States, in appointing a Special Advisory Commission on Civil Disorder, stated that public officials had "an immediate" obligation "to end disorder using every means at * * * (their) command." The President warned, "If your response to these tragic events is only business-as-usual, you invite not only disaster but dishonor."

In response to this new threat to public order, the FBI conducted extensive investigations of extremist activities, which had, by 1967, become a severe national problem. During the first 9 months of 1967, racial violence in 67 cities cost 85 lives, injured 3,200 Americans, and resulted in property damage of over $100 million.

During the late 1960's, college campuses also experienced a "rising tide of intimidation and violence," in the words of University of Wisconsin faculty members. College and university activities were frequently halted by seizures of buildings, detention of faculty and administrative officials, and other outrages. During the 1968–69 academic year, there were demonstrations on over 200 college campuses, many involving arson, bombings, and other violence.

In 1970, the Congress passed a series of laws aimed at the control of bombings across the country. In September of that year, the President's Commission on Campus Unrest, noted, "It is an undoubted fact that on some campuses there are men and women who plot, all too often successfully, to burn and bomb, and sometimes to maim and kill. The police must attempt to determine whether or not such a plot is in progress, and, if it is, they must attempt to thwart it."

In response to these threats, FBI special agents were already conducting investigations to identify individuals and organizations posing a threat of violence. Organizations whose members' activities were exceptionally violent were the subjects of intensive investigations.

New forms of violence which represent threats to our domestic security have emerged as others pass into obscurity. Today, the FBI faces new, complex, challenges in combating such activities. For example, the Bureau must face the problem of terrorism, or violent criminal activity designed to intimidate for political purposes. From 1971 through 1974 there were 641 reported terrorist incidents, including such acts as bombings, firebombings, ambushes, and police killings.

Violence of this kind has confronted the FBI with the task of investigating small, highly secret and mobile groups of criminals styling themselves in the image of the guerrilla soldier, who have adopted his jargon of urban warfare and his revolutionary political ideology.

Some of these groups have become expert in fashioning false identifications. Their tactics include kidnapings, hijackings, bombings, assassinations, and armed robberies to finance further revolutionary activities. Unfortunately, the law enforcement officer, our first line of

defense against such groups and the most visible symbol of government, is frequently the first target of their violence. Self-styled urban guerrillas have been linked to the murder of 43 police officers in this country since 1971, and another 152 officers have been wounded in related incidents.

You should be aware that terrorists have vowed to "bring the fireworks" to our Nation's Bicentennial celebration next year. I believe some will try who are perfectly capable of fulfilling this threat.

Last January, 4 persons died and 53 others were injured in a bomb explosion at the historic Fraunces Tavern in New York City. Responsibility for this explosion was claimed by a group calling itself the Armed Forces of Puerto Rican Liberation.

Many feel that this savage act in New York could be a prelude to more devastation as July 4, 1976, approaches. The American people may rightfully expect their public officials to anticipate and prevent such violence.

The FBI has no desire to oppose legitimate dissent. Nevertheless, it is our grave responsibility to investigate domestic violence of this kind. It is a difficult assignment, but one which the FBI will continue to perform vigorously with whatever lawful resources are available to it.

Most Americans are genuinely concerned with such threats to our domestic security and recognize the need of their Government, through the exercise of its law enforcement power, to respond. You should also be aware, however, that there are others who have as their ultimate goal the overthrow of our political institutions and economic system. These individuals publicly state that they consider terrorist activity "counterproductive" in today's political climate. Nevertheless, they by no means renounce its use at the right moment to attain their objective.

As I indicated to you at the beginning of my remarks, we in the FBI appreciate the opportunity to offer our observations concerning intelligence investigations by the Bureau designed to protect the domestic security of the Nation. It is our hope that out of the current congressional assessment of the FBI and its proper role, the American people will be assured that their Nation's law enforcement and domestic security interests will be protected effectively and in a manner consistent with the policies declared by their elected officials.

Permit me to conclude my remarks by stating my hope that out of improved communications between the FBI and the Congress, a balanced picture of the Bureau's domestic intelligence role will emerge which, in addition to identifying any weaknesses in its past performance, also recognizes its accomplishments and preserves for the FBI the necessary flexibility to successfully fulfill domestic security responsibilities of ever-increasing complexity.

In this connection, I should reiterate our willingness to report to the Congress concerning our performance in this field and adherence to rules established for us. It is our view that establishment of a joint Senate-House oversight committee would greatly facilitate this process and avoid duplication of testimony and the proliferation of highly sensitive information.

Nevertheless, whatever mechanism is eventually established to maintain communications between the FBI and the Congress, I am sure

that we can all agree on the necessity of preserving the Bureau's ability to function effectively as a deterrent to criminal violence by those who seek to undermine our Constitution.

Mr. Chairman, that concludes my statement. I would be happy to answer your questions.

Chairman PIKE. Thank you very much, Mr. Adams. I think we can all agree on the necessity of preserving the Bureau's ability to function effectively as a deterrent to criminal violence. I think we can also all agree on the desirability of having a balanced picture of the Bureau's domestic activities. At this time I think our next witness would be in order. He is a retired FBI man who spent 20 years with the Bureau. I would like to ask Mr. Arthur Murtagh to take the stand at this particular point and give his testimony.

Mr. MCCLORY. Mr. Chairman, may I suggest that we conclude with the examination or questioning of these witnesses and excuse them?

Now I understand there was some effort here earlier to effect a panel of representatives of the FBI and dissenters and persons that were subjected to investigation and so on.

Chairman PIKE. The gentleman is correct. There was an effort to establish such a panel.

Mr. MCCLORY. Yes, and the FBI expressed their unwillingness to participate in a panel.

Chairman PIKE. That is correct.

Mr. MCCLORY. I think if we now proceed to call other witnesses we will be violating the basis upon which the FBI has come here this morning.

Chairman PIKE. Do you have any objection to having a retired FBI man testify at this particular point, Mr. Adams, before we go into the questioning? I will do it your way.

Mr. ADAMS. Yes, I do.

Chairman PIKE. Then we will not have the retired FBI man testify at this time.

Mr. Adams, you refer to the ever-changing threats. I would agree with you that the threats are indeed ever-changing. The question is how much our techniques change, and how much our procedures change, to meet these ever-changing threats. You have been investigating the Socialist Workers Party of the United States of America, as I understand it, for 30 years, now. Do you find that their threat today is the same threat that it was 30 years ago?

Mr. ADAMS. Yes, sir.

Chairman PIKE. What is that threat?

Mr. ADAMS. Well, the threat is in an organization that advocates the overthrow of the Government by revolutionary means and that basic philosophy is one that brings it within the investigative purview of the FBI.

Chairman PIKE. The FBI position is that this party advocates the overthrow of the United States of America by revolutionary means; is that correct?

Mr. ADAMS. Yes.

Chairman PIKE. During that 30 years of surveillance and investigation, how many members of the Socialist Workers Party have ever

been indicted and tried for advocating the revolutionary overthrow of the United States of America?

Mr. ADAMS. There were some earlier in 1940 under the Smith Act. There were 18 under the Smith Act of 1940. Their trials would have been in 1941 or somewhere in that period.

Chairman PIKE. So, since 1941 there have been no indictments or prosecutions of members of this party; is that correct?

Mr. ADAMS. To my knowledge.

Chairman PIKE. Now, in the course of investigating the IPS—how long did you investigate them?

Mr. ADAMS. About 5 years.

Chairman PIKE. In the course of that investigation, if I had made a phone call to the IPS, would my phone call have been recorded? Just for the benefit of anybody who might not know, this is a very liberal group known as the Institute for Policy Studies—a relatively liberal group. I hate to characterize people.

Now, would my phone call to this group have been intercepted?

Mr. ADAMS. Mr. Chairman, I would say no to that question. I believe this is a matter of a statement that has been made by us publicly. I do have one problem: According to guidelines given to us by the Department in connection with public testimony, when we get into activities—specific activities of specific organizations or individuals—where we do have matters in litigation or under criminal investigation that——

Chairman PIKE. I'm not aware of any matter under investigation, or under criminal investigation, in connection with the question which I am going to ask you next, but it is very specific: Was a phone call from my administrative assistant to the Institute for Policy Studies intercepted and recorded by the FBI?

Mr. ADAMS. I have no knowledge of any such interception.

Chairman PIKE. If I had knowledge of such—no; I will withdraw that. Was a communication which was not necessarily a phone call—I believe it was a phone call, but it wasn't necessarily a phone call—from my administrative assistant to the Institute for Policy Studies intercepted?

Mr. ADAMS. I don't have any information of such. Do you?

Mr. SHACKLEFORD. Not to my knowledge.

Mr. ADAMS. I have never heard the allegation. It had never been presented to me prior to this hearing by staff or anybody else.

Chairman PIKE. I read to you from a document labeled "WFO 100–46784": "WFT"—and I don't know what "WFT–4" means; you probably do—"Advised that Mrs. Robert Gale Woolbert, administrative assistant to Congressman Otis G. Pike (D) of the First Congressional District of New York, was asked by Byron Johnson"—who is a former Congressman—"to call Marcus Raskin and did so on 7–26–72. Johnson was running for the Fifth Congressional District of Congress and wondered if Raskin would 'be willing to go around and round up a group of liberal, antiwar folks for the evening of August 6–12.'"

Is it possible that the document from which I read does in fact represent an interception of a phone call from my congressional office to the IPS?

Mr. ADAMS. It certainly doesn't sound like it to me. The "4" would be a means of concealing the identity of an individual who furnished

us information. It could refer to some other type of means, but normally not.

Chairman PIKE. It was some other form of surveillance—is that what you are saying?

Mr. ADAMS. It sounds like a live individual who has furnished that information. Had I been aware of it, I could have checked, and I will be glad to check at the request of the committee.

Chairman PIKE. I have some mild interest in the subject.

[The information is included in a reply from the FBI, dated November 28, 1975, and is printed on pages 1123–1127 of the appendixes of these hearings.]

Chairman PIKE. Mr. McClory.

Mr. MCCLORY. Thank you, Mr. Chairman.

First of all, I wish to say I appreciate the cooperation which the FBI has given this committee in providing us with information that we require in order to carry on this investigation. I personally visited the FBI. I know that in addition to the information you provided at that time—much of it classified information—you have cooperated subsequent to that time in providing additional material for the benefit of our committee and for this hearing.

The thing that concerned me then and concerns me now is whether or not, in addition to the activities about which you have testified, there are any private, sort of ad hoc activities, which are carried on by the Director of the FBI or any other personnel? I know that there were private files that were kept by a former Director of the FBI. Are there any such private files about individuals being kept now?

Mr. ADAMS. Similar to the official confidential files maintained by Mr. Hoover?

Mr. MCCLORY. Yes.

Mr. ADAMS. No, sir; not in that context.

Mr. MCCLORY. How about the release of information collected by the FBI? For instance, for a long time there existed a sort of arrangement whereby a President of the United States or others in the White House, just by a telephone call, could receive detailed information about whatever individual they sought information on from the private files of the FBI. Has that practice been discontinued?

Mr. ADAMS. Yes, sir. We testified in February concerning various abuses about the FBI. One was concerning certain instances where the President or individuals acting for the President had requested information which on its face would appear to be improper although we did not know the full reason for the request.

I would say that the cleansing effect of Watergate has discontinued such practices. I know I have talked with Mr. Kelley and the other members of the executive staff of the FBI. We collectively know of no such improper overtures having been made to the FBI since Mr. Kelley has been Director.

Mr. MCCLORY. It is now a basic policy of the FBI that any material in FBI files will not be used for political purposes; is that correct?

Mr. ADAMS. Absolutely.

Mr. MCCLORY. I want to inquire about the internal security index or the ADEX. How many people's names are on that list, how do they get there, and how do you get your name off that list?

Mr. ADAMS. Basically the ADEX or administrative index is an index to investigations currently being conducted by the FBI where a determination has been made within the FBI that that individual is a threat to the internal security, a current threat at the present time. It is a very small list, relatively small. It involves approximately 1,250 names at the present time.

Mr. MCCLORY. What is the longest time that a name has been on that list? Do you have names that have been on there for 30 or 40 years?

Mr. ADAMS. No, sir. The administrative index did not come into play until 1971. Prior to that time, we had the security index, which was a listing which had a different purpose.

Mr. MCCLORY. Does membership in the Socialist Workers Party just automatically put you on the index?

Mr. ADAMS. No, sir, it does not.

Mr. MCCLORY. About how many members of that party would you have on the list?

Mr. ADAMS. I can give you that figure. I would prefer that any detailed description of targets and individuals be done in executive session.

Mr. MCCLORY. Have you already furnished that information to the staff?

Mr. ADAMS. I do not know that we have had a request.

Mr. MCCLORY. If not, would you furnish that? I would like to have the number. I don't have to know the names.

Mr. ADAMS. Yes, sir, I have no objection to furnishing it to them.

[The Bureau's reply is included in its November 28, 1975, memorandum, and is printed on pages 1123–1127 of the appendixes.]

Mr. MCCLORY. You mentioned in your statement that you are not only interested in subversive activity which implied violence but also "undermining." What is the difference between the violent overthrow of the United States and undermining the United States? Have you got two groups that you are interested in?

Mr. ADAMS. No, sir, they are both working toward the same end. It is all inherent in the same idea of activity with the intent or design to overthrow the Government of the United States or any subdivision by force and violence.

Mr. MCCLORY. My time is up. Thank you very much.

Chairman PIKE. Mr. Stanton.

Mr. STANTON. Thank you, Mr. Chairman.

Mr. Wannall, has the FBI ever participated in burglaries in order to obtain information for their purposes of investigation?

Mr. WANNALL. I think Mr. Kelley, at a news conference in July, acknowledged that the FBI had participated in surreptitious entries to obtain information.

Mr. STANTON. Were they illegal activities?

Mr. WANNALL. I'm not in a position to render an opinion. The whole thing, as a matter of fact, is under study by the Department of Justice at this time.

Mr. STANTON. Could you tell me, from 1945 until the present, how many instances there were?

Mr. WANNALL. We have made a very thorough study and have interviewed numerous individuals who might have been knowledge-

able in that area. The figure that I recall that we have come up with is about a dozen and a half targets. However, there had been numerous entries against some of those targets. I think we have accounted for something in the neighborhood of 240 entries, none of which have taken place since April of 1968.

Mr. STANTON. Since April of 1968?

Mr. WANNALL. In our domestic area.

Mr. STANTON. Do you know what illegal entry is under the law? Are you a lawyer?

Mr. WANNALL. I think I understand what an illegal entry is; yes, sir.

Mr. STANTON. Do any of these fit that definition?

Mr. WANNALL. I think in the definition, intent to commit a crime within the premises would be included. The entries that were made——

Mr. STANTON. Do you know what breaking and entering is under the State law of Maryland or Ohio?

Mr. WANNALL. Yes, sir.

Mr. STANTON. Do you have to have the intent to commit a crime to break and enter?

Mr. WANNALL. I would say you probably do not have to have an intent to commit the crime on the premises.

Mr. STANTON. Intent is not an important element. In other words, if you had the noblest intent in the world, but if you are breaking and entering, it is still a violation of the State law; correct?

Mr. WANNALL. I would take your definition of it, Mr. Congressman.

Mr. STANTON. I would like to have your definition. I would like to know what a prominent person in the FBI thinks of breaking and entering.

Mr. WANNALL. I can assure you there are no such circumstances today.

Mr. STANTON. That is not the question. The question is, do you understand what breaking and entering is?

Mr. WANNALL. Yes.

Mr. STANTON. Has the FBI illegally entered premises to seek information?

Mr. WANNALL. The FBI has entered premises without the knowledge of the owners of the premises for the purpose of seeking information; yes, sir.

Mr. STANTON. In other words, they are guilty of breaking and entering and violating the law of the States of this Union; is that correct?

Mr. WANNALL. Again, I am not going to render an opinion. That is in the hands of the Department of Justice at this time.

Mr. STANTON. Why did they get involved in breaking and entering?

Mr. WANNALL. I think basically it had to do with the passage of the Internal Security Act of 1950, title II.

Congress directed the Justice Department to place itself in a position, in the event of a national emergency, to take off the streets individuals who might be placed in detention camps.

Mr. STANTON. Is there anything in that act that allows the FBI to break and enter a dwelling?

Mr. WANNALL. No, sir.

Mr. STANTON. Then that is not justification for those illegal entries; is it?

Mr. WANNALL. The act itself did not provide for such breaking and entering.

Mr. STANTON. So the fact of the matter is that the FBI cannot use that as a basis for illegally breaking and entering an inhabited dwelling.

Mr. WANNALL. I know of no law which would permit the FBI to do that.

Mr. STANTON. Then the FBI has been involved in illegal activities?

Mr. WANNALL. The FBI has been involved in breaking and entering.

Mr. STANTON. Did they ever seek the Attorney General's permission, prior to 1972, for breaking and entering?

Mr. WANNALL. Not to my knowledge.

Mr. STANTON. Who was the person responsible, prior to 1972, for approving a breaking and entering?

Mr. WANNALL. These were approved at the highest level of the Bureau, normally the Director of the FBI.

Mr. STANTON. Then Mr. Hoover directed the activities. He did not seek approval from the Attorney General?

Mr. WANNALL. To my knowledge, he did not.

Mr. STANTON. In other words, Mr. Hoover felt that he had the power to violate the law of a State or of this country?

Mr. WANNALL. Are you asking me what Mr. Hoover's opinion was?

Mr. STANTON. Yes; I am asking you if he approved illegal activities.

Mr. WANNALL. He approved the breaking and entering; yes, sir.

Mr. STANTON. Do you think, in terms of the U.S. Government, that for the purposes of the Bureau and of this Government the activities of the Bureau are going to be improved by virtue of the fact that we have had exposure of some of the illegal activities of the Bureau?

In other words, do you feel that the examination of these publicly is going to be therapeutic for the Bureau?

Mr. WANNALL. I think they will be; yes, sir.

Mr. STANTON. Thank you.

Chairman PIKE. Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman.

Mr. Adams, one of the problems we have, I think, with the FBI is in regard to wiretapping. It is a practice that the FBI has not admitted to but about which we have some information that leads us to believe it went on in the past and I am wondering if it has been stopped. I am also interested in the question of reliable informants.

We understand that the FBI will go into a town, say Chicago, where I am from, and they will get a local policeman or some local police force to do wiretapping for them. They pass this information on to a strike force made up of an FBI agent, Justice representative, IRS agent. Then, when they go to court and they are asked where the evidence came from, they can properly say they did not have anything to do with the wiretap.

Do you get any information that way that you classify from reliable informants?

Mr. ADAMS. Not that particular situation. If the Chicago Police Department were engaged in illegal wiretaps and it came to our attention, we would open an investigation under the interception-of-communication statute.

Mr. MURPHY. We have been advised by Illinois Bell, and they have admitted to the President's Commission on Wiretapping, that they never reported in the last 3 or 4 years any illegal wiretap they found except to the customer whose line they found it on. They said they had no duty to report it to the Federal authorities.

I am wondering what your interpretation of their position would be?

Mr. ADAMS. You are talking about the telephone company?

Mr. MURPHY. I am talking about the Illinois Bell Telephone Co., the only subsidiary of A.T. & T. which does not report wiretaps to Federal authorities or any authorities. The rest of the system all does.

I am of the opinion that if a citizen sees a crime or knows of a crime being committed, he has a duty to report it to the proper authorities.

Mr. ADAMS. I am a little hesitant to comment on their testimony, not having read it or being familiar with the exact wording of the statement. But I do agree with you that when information comes to the attention of a citizen—we urge this of anyone—this should be reported to proper law enforcement authorities.

Mr. MURPHY. Let me ask you a question, Mr. Adams.

There was an inordinate number of ex-FBI agents working for A.T. & T. and its subsidiaries throughout the country. Is there any purposeful connection there?

Mr. ADAMS. No. I think you will find in any major segment of industry that former FBI officers are often employed as security officers. I think they have demonstrated their qualifications over the years. They do gravitate to good positions in private industry.

But there is no concerted effort to penetrate or to control or dominate or do anything of this sort on the part of FBI agents collectively or individually.

Mr. MURPHY. When you are summoned before a congressional committee and queries are presented to you as to how many wiretaps exist today in the United States, was it a practice before the Director came down to testify, to send out a notification, "Take the wiretaps off for a week or 2 so when I go to the committee I can testify that as of this day there are only 10 or only 4 domestic wiretaps existing"?

Mr. ADAMS. Absolutely not. I believe the information we furnished to this committee, and to the Senate committee staff, would clearly show by checking against appropriations testimony, information of that type. There was no such activity. Mr. Hoover frankly imposed restraints on wiretapping in the FBI—considerable restraints on wiretapping. In fact, some of the material we made available shows that he was one of the loudest voices urging some type of authority and approval in the Attorney General, not only of ours but other agencies.

Mr. MURPHY. All right. I only have 5 minutes.

Did the FBI ever get information that the IRS was conducting schools on wiretapping?

Mr. ADAMS. I don't recall whether we had any such specific information.

Mr. MURPHY. We had a former U.S. attorney tell us that he acknowledged the IRS was conducting informal schools on wiretap. They bought the equipment and the Director of the IRS came in and told the agents, "If you get caught, you are on your own; but, if you bring in good information, we will make a strong case out of it."

Are you possessed of that information?

Mr. ADAMS. No, sir. That would be IRS and not the FBI.

Mr. MURPHY. This was a former U.S. attorney.

Mr. ADAMS. Any wiretaps requested today—security or under title III of the Omnibus Crime Control and Safe Streets Act—would require the approval of the Attorney General.

Mr. MURPHY. It is interesting that you bring up that act. There is a title XII to that act and this administration and the last administration have totally ignored title XII to that act. That title requires the Attorney General, the Director of the FBI, and all the agencies that we, the Congress, gave extraordinary powers to—entries into homes, special grand juries—to convene a special panel to see how these laws were working and if there were abuses. Since that law has been on the books, title XII has never been acted on. The National Commission on Individual Rights has never been activated.

The Speaker of the House has appointed his designees—four Members of the House—to this Commission. The President of the Senate has appointed three Members of the Senate to that Commission. The last two administrations have never operationalized that Commission.

Mr. ADAMS. The Wiretapping Commission?

Mr. MURPHY. This is title XII of the Omnibus Crime Control and Safe Streets Act of 1968. It has nothing to do with the Wiretapping Commission. Title XII has never been implemented. I find that terribly strange when title XII required it.

That is what Chairman Emanuel Celler extracted from the police agencies of the Federal Government for passage of that bill. We gave you people extraordinary powers. Yet the Speaker of the House has appointed his Members and so has the President of the Senate—and the President has never appointed public members or the chairman. They have come up and talked about it before the Appropriations Committee, but that panel has never been implemented.

Mr. ADAMS. It is my understanding that the Commission, which was instituted earlier this year, was in furtherance of title XII. I may be mistaken, but it has representatives of both Houses of Congress and does have Presidential appointees and we have been appearing before that Commission.

Chairman PIKE. Mr. Treen.

Mr. TREEN. Mr. Chairman, I ask to reserve my time.

Chairman PIKE. Mr. Kasten.

Mr. KASTEN. Thank you, Mr. Chairman.

Mr. Wannall, how many years has the FBI been keeping the Socialist Workers Party under surveillance?

Mr. WANNALL. We have been investigating the party, I would say, since 1940—since about 1940.

Mr. KASTEN. How many violations of law have you discovered in this surveillance since 1945?

Mr. WANNALL. The only ones with which I am familiar are the ones that have been addressed earlier today.

Mr. KASTEN. If my understanding is correct, those were prior to 1945. In the last 30 years, how many violations of law have you discovered through this investigation?

Mr. WANNALL. I can recall none at this time.

Mr. KASTEN. How many years have you kept the Institute for Policy Studies under surveillance?

Mr. WANNALL. We had an investigation on it which I think was opened in 1968 and closed in early 1974.

Mr. KASTEN. For a total of 5½ years. How many violations of law were discovered by your agents during that time?

Mr. WANNALL. I have no knowledge of any such violations.

Mr. KASTEN. What about the cost of these kinds of operations—30 years with the Socialist Workers Party and 5½ years with the Institute for Policy Studies. We have material here representing the 5½ years of studies of the Institute for Policy Studies. How many agents were involved in this?

Mr. WANNALL. I cannot give you an estimate of agents.

Mr. KASTEN. Of informants?

Mr. WANNALL. I would like to say to you that our investigations in the internal security or domestic intelligence area, as Mr. Adams indicated in his opening statement, are not devoted entirely to the collection of evidence with regard to possible violations of the law. There is an intelligence function which we do perform.

Mr. KASTEN. Through your 5½ years of study and surveillance of the Institute for Policy Studies, what particular pieces of intelligence did you find that would be valuable to our country?

Mr. WANNALL. I have some examples here. Would you care for me to include those in the record?

Mr. KASTEN. Could you briefly summarize?

Mr. WANNALL. Yes. I have been reminded that some of the information we have here is of a classified nature and also there is litigation involving the FBI and the Institute for Policy Studies.

Mr. KASTEN. Could you quickly just summarize it as to the type of information that is there? If you would prefer not to, that would be all right, too.

Mr. WANNALL. I will be happy to summarize it, but I request that it be considered in executive session.

Mr. KASTEN. All right.

How many people were involved in the investigation or the surveillance of the Institute for Policy Studies over that 5½-year period?

Mr. WANNALL. Are you able to give any estimate on that?

Mr. SHACKELFORD. I would put it in the vicinity of two or three at the most.

Mr. KASTEN. Two to three people? How many informers would be involved? In other words, all this information came through the work of two or three people?

Mr. WANNALL. I will ask Mr. Shackelford if you don't mind, who had direct supervisory responsibilities on the case, to attempt to give you an estimate on that.

Mr. SHACKELFORD. I think you would have a situation where the case would be assigned to one agent along with a number of other case matters. At one time or another he may have another agent helping—another agent may contact a source of information he has. But I doubt that any one agent would devote his full time and attention to a particular case such as that.

Mr. KASTEN. Our information shows that you have 8 agents and that you have at least 52 informants. Is that simply incorrect?

Mr. SHACKELFORD. I would say it would have to be. You may have had eight different agents at different times handling that case. I am speaking in terms of a continuing pattern of activity. You would not have had eight agents assinged to it.

Mr. KASTEN. What about the 52 informants?

Mr. SHACKELFORD. That does not sound proper. I don't think so.

[By letter of January 8, 1976, the FBI replied to Mr. Kasten's question above. The letter is printed on page 1203–1204 of the appendixes.]

Mr. KASTEN. How much would an informant cost?

Mr. SHACKELFORD. I would not have any way of answering any question like that.

Mr. KASTEN. About $100 or $500? About $1,000?

Mr. SHACKELFORD. I would not attempt to answer that question.

Mr. KASTEN. What I am trying to determine is how much that 5½ years cost the taxpayers. How much money did that particular operation—the investigation of the Institute for Policy Studies—cost the U.S. taxpayer?

Mr. SHACKELFORD. We don't have figures put together to answer a question like that. I could not answer that question accurately or even estimate it.

Mr. KASTEN. $5,000, $10,000, hundreds of thousands of dollars?

Mr. SHACKELFORD. I would not attempt to answer that question.

Mr. KASTEN. Mr. Chairman, my time is up.

Chairman PIKE. The gentleman's time has expired. Mr. Milford.

Mr. MILFORD. Thank you, Mr. Chairman.

Mr. Adams, it is time to bring some of the matters we are discussing into another perspective, rather than looking at them in limbo. Civil rights have two different perspectives that should be considered. There have been numerous adverse press and public criticisms against the FBI and the Secret Service for their failure to locate and detain individuals who have recently allegedly threatened the life of the President of the United States.

Isn't it a fact, sir, that discovery of these individuals who would do harm to the President and other leaders—both here and those visiting from abroad—isn't it a fact that it would be totally impossible without domestic intelligence work and the existence of the ADEX file that some citizens are now criticizing? Wouldn't it be impossible to do that work without these effects?

Mr. ADAMS. Yes, sir. The Secret Service has the basic protective responsibilities for the President, but they rely on the FBI for providing necessary intelligence. If you recall, after the assassination of President Kennedy there were outcries of lack of coordination or cooperation. I think the FBI was justifiably criticized by the Warren Commission itself in not providing broader criteria for furnishing information to the Secret Service.

So, as a result of the Warren Commission we did broaden the criteria. We submit information to them, for instance, on everyone on the ADEX—that these are individuals who have made statements against the Government, have indicated violence toward the Government, or in some way are carrying out activities which might result in the ultimate overthrow of the Government. By referring this information to the Secret Service we do provide the intelligence function for them.

Now we were criticized at one time for not providing enough dissemination; yet, just before the two incidents in California, hearings were beginning because the Secret Service is given too much information by the FBI and then after the two current incidents against the President, now there is concern, "Are we giving them enough?"

We must provide this intelligence to Secret Service and other Government agencies.

Mr. MILFORD. The FBI is now being criticized by some Members of Congress and some organized groups and some members of the press for domestic intelligence activities that it conducted against individuals and organizations in the 1950's–60's who were believed to have been involved in rioting, subversive activities, and illegal antiwar activities.

Mr. Adams, isn't it a fact that during the 1950's–60's, when cities were being burned, property destroyed and colleges being shut down, that Members of Congress, editorial writers in the press, and the majority of the public, were then demanding that the FBI increase its investigative efforts into these areas?

Mr. ADAMS. Yes, sir, they were.

Mr. MILFORD. I notice by your latest statistics that our Nation's crime rate is up by an alarming rate. If I remember correctly, it is up 18 percent; is that correct?

Mr. ADAMS. That is correct.

Mr. MILFORD. It would appear to me that every time a crime is committed, it is a violation of the citizens' civil rights. Therefore, millions of our citizens' civil rights have been violated. Isn't it a fact that many of these crimes could be prevented and the criminals apprehended if the FBI and our police agencies could increase domestic intelligence activities?

Mr. ADAMS. Well, what we are seeking is to obtain a proper balance, and it is a purpose, I think, that these hearings do provide, as well as the hearings in the Senate—that we do have to balance the interest of the country and try to satisfy the overall interests of the United States coupled with the least intrusion possible into the rights of the individual.

It is true there are 20,000 people a year murdered in the United States, and there are all sorts of brutal crimes of violence taking place, and at times we sometimes wonder who is the enemy. Are we establishing more restrictive safeguards against the law enforcement agencies to make sure that we don't repeat abuses which have taken place in the past, or are we giving equal concern to the rights of the individuals that are victims of the crime? Is the public afraid of us or the fact that they can't walk the streets at night; they can't enjoy the parks, engage in business without being victims of crime.

That is why guidelines which Congress will derive out of hearings such as this will give us a more clear shot at what our role is supposed to be in this area.

Chairman PIKE. Mr. Hayes.

Mr. HAYES. Mr. Milford would like me to yield a half a minute, and I will be glad to do it.

Mr. MILFORD. I wanted to finish this particular colloquy by stating that violations of civil rights is a relative matter so far as I am concerned. It would appear that this Nation has a choice. We can violate

a few civil rights to apprehend a few violators of our law or allow millions of our citizens' civil rights to be violated.

I feel this is a perspective that should be considered as we go through this.

Thank you for yielding.

Mr. HAYES. Mr. Adams, the development of confidential informants, I think, was one of the tasks you outlined to Mr. Milford.

Do you think that the FBI has a problem when among those developments that they have conjured, we find Jack Ruby and Sara Jane Moore? Do you think there might be something wrong with the development techniques in the FBI?

Mr. ADAMS. I don't think there is anything wrong with the development technique. It is such that we develop individuals, try to verify the information they furnish; we try to insure their stability. We are dealing with human beings, and when you deal with human beings, they don't always go according to plan.

Mr. HAYES. From your experience and your carrying out of your particular responsibilities with the FBI, would you say that there is something that happens to the stability of the Rubys and the Moores in the course of being confidential informants? In other words, you have insured their stability and something cracks them later on.

Mr. ADAMS. This happens. I would like to make a point that Mr. Ruby was not an informant of the FBI. We are hung up on an issue on that point, but he was contacted on nine occasions, which we did duly report to the Warren Commission, for the purpose of furnishing information, because we thought he would be in a position to furnish such; but all of the records show that on none of those occasions did he ever furnish any information.

So he was being contacted as a potential in that regard, but actually we were correct in saying he was not an actual informant.

But things do happen to informants that we try to guarantee, we try to insure, and we constantly remind them not to engage in excesses, not to commit illegal acts.

Mr. HAYES. What happens that a Sara Jane Moore kind of gets away from all of that care and affection?

Mr. ADAMS. You are dealing with people and——

Mr. HAYES. Just ordinary folks?

Mr. ADAMS. Right; and in the criminal field the informants you develop are not recruited from the Sunday schools. They are recruited from individuals who have knowledge of criminal activity, and they do sometimes present personality problems. But over the years informants are the backbone of obtaining information today. Last year, over 5,000 fugitives—FBI fugitives—were apprehended, as a result of informants. Another 1,000 subjects were arrested in cases as a result of informants' information. Over $86 million in contraband and stolen property was recovered through informants. Information furnished the local police departments resulted in another 6,000 fugitives or subjects being arrested. They are valuable. They are essential.

Mr. HAYES. Mr. Adams, on page 11 of your testimony, the middle paragraph is a call to awareness to us, I assume, because the second sentence begins, "You should also be aware, however, that there are others who have as their ultimate goal the overthrow of our political institutions and economic system."

Then you go on to say that some of these just don't like the use of some terrorist techniques at this point; they think they are counterproductive. But they haven't renounced anything.

Does that mean that the FBI will, through its policy formation and activities, continue to watch these people to see if they do change their minds sometime in the future about how they would like to bring about economic and political changes in this country?

Mr. ADAMS. Yes, sir, we feel when an organization states, maybe perhaps publicly, that it doesn't engage in violence, but yet the organization also states to its members and has as a program that we don't want to do anything that might be counterproductive, wait until the time is right to try to overthrow the Government, we feel that we have to monitor the activities of that organization to be on top of the situation when they do determine that because of, say, a hostile attack on the United States by the Soviet Union, or some other foreign country, that this group at that time will say, now is the time.

It wasn't productive to engage in an act to overthrow the Government and storm the capital in 1975, but in 1977, if the time is right, we will act, and those are the groups that we find no way of ignoring and also discharging our responsibilities in connection with providing the necessary domestic intelligence to the President, the Attorney General, the executive branch, in order to make these decisions they are required to make.

Chairman PIKE. The time of the gentleman has expired. Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. Adams, I am an ex-district attorney, and I have probably experienced the same kind of frustrations you have in trying to deal with crimes that have been committed in the context of Supreme Court decisions that seem to law enforcers sometimes not to make a whole lot of sense. So I can sympathize and commiserate with you with the aspects of honest-to-God crime. I will defend you from that point of view.

But when you start talking about the *Lori Paton* case and the Camden, N.J., entrapment case, there I don't think that you have any justification for that kind of activity.

And it seems to me that there may be an attitude on your part—and I would like to have you comment on this—particularly with respect to the Socialist Workers Party, that membership automatically means advocacy of revolution even though the individual might not advocate revolution.

In other words, you have said that for 30 years you have followed these people. There have been no convictions in those 30 years. Obviously, if they were advocating revolution and you were following them, you would have some convictions; but you continue to follow them because you think they are advocating it—and that doesn't make any sense. Why do you stay after them if we don't have any convictions or any evidence that will result in conviction?

I can understand conducting an investigation for a short period of time and then withdrawing—but a 30-year investigation, does that make sense to you?

Mr. ADAMS. Well, we have no evidence of a statutory violation of one of the crimes of sedition, insurrection, rebellion. We do have an

intelligence function to perform if a group is saying and believing and practicing a belief, that when the time is right, when we can combine our activity with other activities such as an attack on the United States——

Mr. JOHNSON. Are they advocating an overthrow of the Government? If they are, it is a violation of the law and subject to penalty.

Mr. ADAMS. Getting into questions of the Smith Act, advocacy of the overthrow of the Government and the court decisions rendered interpreting it, the statute is still on the books. It is a valid statute, but the purpose and the interpretations of certain provisions do require far more than mere advocacy. They get into questions of imminency, and actual overt acts. Yet when people knowingly belong to an organization which says, when the time is right, we are going to strike, and they never deviate from this policy, and they work toward it, if Congress feels that we should not investigate that organization, out of these deliberations I am sure we will get a mandate that it is not necessary to follow this type of an organization.

But under the Presidential directives, and the interpretations of the Attorney General, we have the lawful authority to conduct these intelligence investigations, and this is what guidelines will result, I am sure, if we should not investigate people that say we are going to do something at a given time; when that time comes, we should wait until it happens. Even the Supreme Court has said you don't have to wait until——

Mr. JOHNSON. It seems to me you are searching after a strawman. Maybe you aren't.

How old was this little girl when she wrote to the Socialist Workers Party for information?

Mr. ADAMS. I don't want to get into the lawsuit exactly, but basically what this boils down to is we had a mail cover on the Socialist Workers Party—a lawful mail cover provided for in the postal regulations.

In reviewing the outside of the envelope, the post office furnished us the name and address of this person writing—we don't know who is writing—to the Socialist Workers Party. An investigation was opened to determine. They check, find out she is a school student; they close the case. No further investigation was conducted, but should we have stopped and never determined, well, is this a legitimate contact or a nonlegitimate contact—no; it stopped right there.

Mr. JOHNSON. It stopped right where?

Mr. ADAMS. At the point where it was determined that this was a high school student writing to the Socialist Workers Party. From that point on, it is evidently——

Mr. JOHNSON. It stopped right at that high school level?

Mr. ADAMS. Right; we did not continue an investigation of her to follow her activities, determine her beliefs and faiths. It was stopped right there.

On the entrapment situation——

Mr. JOHNSON. I would like to know how long it took; and if the chairman will indulge me, since my time is up, we can go on to the entrapment situation.

How long did it take to establish that with respect to Miss Paton?

Mr. ADAMS. Perhaps we have the time limit here and would be glad to give it to you.

Mr. JOHNSON. Then, with the chairman's permission, would you go on to the entrapment question?

Chairman PIKE. You may respond to the entrapment question.

Mr. ADAMS. While he is looking, entrapment is a very difficult legal question, but from our standpoint and from the law, when an individual, as in this case, comes in and says he has been asked to participate in activities against the draft boards of an illegal nature—we didn't contact him; we didn't direct him. He came to us voluntarily.

Mr. JOHNSON. Have you seen his statements?

Mr. ADAMS. No, I haven't. I haven't been provided any statements.

Mr. JOHNSON. I suggest somebody be here this afternoon, because when that statement is made public, you may want to refute it.

Chairman PIKE. All of the statements will be made available. I thought they had been made available, and you certainly should have them, Mr. Adams.

Mr. ADAMS. There is going to be testimony scheduled on this at a later date involving our agent who actually handled the informant. I am not familiar with all the details, but in public session this will be fully explored, but in entrapment you are in a situation where if you don't induce someone to go out and commit an act he was not otherwise intending to do, prepared to do, or willing to do, legally, it is not entrapment; and we have lost lawsuits before on informants, whether it did constitute entrapment, but I would like to get on the record a statement that we don't use agent provocateurs, we don't tolerate inducing a person to commit a crime who would not otherwise do it, but if he is willing to do it, the law says we can provide him the opportunity.

And we consult daily with U.S. attorneys on this because we feel it is a legal question and we want to abide by the law as much as we can.

Chairman PIKE. Mr. Johnson's time has expired, but are you able to answer the other half of the question he asked earlier—about how long it took to determine this high school student was not——

Mr. ADAMS. We don't have it here, but we will be glad to make it available to the committee.

[The Bureau's replies, both dated November 28, 1975, are printed on pages 1123–1126 and 1134–1136 of the appendixes.]

Chairman PIKE. Mr. Lehman.

Mr. LEHMAN. Thank you, Mr. Chairman.

In 1972, as chairman of the Dade County School Board, I was included as part of a kind of leadership coalition to deal with and perhaps prevent any kind of violence that was anticipated at the Republican Convention, especially on the beach that year. In our conversations with the public safety people from the beach and from the county, we at that time were more concerned with provocateurs leading the violence and causing the violence than the people in the various organizations that many people thought would actually be the problems.

One of the indications was that some administrative people or someone was going to do the kind of provocateur work that would turn public opinion strongly against antiwar groups, especially the group known as the Vietnam Veterans Against the War. Actually, the Vietnam veterans group on the beach at that time seemed to be one of the primary targets.

This is not related to the beach, but I have heard from reliable sources that in the VVAW in New Orleans most of the people in that chapter were people on the FBI payrolls.

Now the Florida chapter of the VVAW in Gainesville was certainly a major target, and this resulted in the well-known trial of the Gainesville Eight. According to the trial information, the chief Government witness was an agent provocateur and apparently the jury found out that the provocateur was the source of most of the problems and not the Gainesvville Eight, which resulted, of course, in finding them not guilty.

Now I have no quarrel with informers, but I do have a problem with the use of provocateurs, which are certainly counterproductive, and I would like to ask two questions.

The question I would like to ask is this: You mentioned before that you do not use provocateurs, but from the information I have there has been use of provocateurs in different Federal agencies. I would like to know whether you have used them and whether you are continuing to use them, and, if so, I would like something in the final report of this committee that would condemn the use of provocateurs and recommend necessary legislation to prevent the further use of provocateurs.

My question to you is, did you use them, and do you use them?

Mr. ADAMS. No, sir; it has never been a policy of the FBI to use provocateurs. We do use informants. We don't use provocateurs today. I would have no objection to this committee going strongly on record in that regard, because it coincides with our policy.

Mr. LEHMAN. Would the gentleman yield? What would you call the chief Government witness at the Gainesville trial? Would you call him an informer, or what?

Mr. ADAMS. I believe, and I am calling on this from recollection, but I believe the Government's position in that was that he was not a provocateur, and I think it was a factual situation, and where you do get into these, that is what juries are for; but in our view we did not use him in an agent-provocateur relationship, to my knowledge.

Mr. LEHMAN. Thank you, Mr. Adams. I yield back the rest of my time.

Chairman PIKE. Mr. Treen.

Mr. TREEN. I would like to yield 2 minutes to Mr. Kasten and 2 minutes to the Chair and reserve 1 minute until after Mr. Field's questions.

Chairman PIKE. Mr. Kasten.

Mr. KASTEN. Thank you, Mr. Chairman. I want to follow up on a question Mr. Johnson asked. The testimony of Lori Paton seems to indicate that in February of 1973 you originally began investigating her—and she is sitting right here in the room—and it wasn't until July that, according to a letter we have from J. Wallace LaPrade, you stopped working on it. So it took you from February until July to say whether or not this person was a high school student.

The letter reads:

> After carefully reviewing the facts in this matter, I have concluded there was no impropriety * * *. You may be assured that Ms. Paton is not the subject of investigation * * *.

What is the fact here? Does it take you from February until July to find out whether she is a student or not, and then you deny you even had a mail cover on her.

Mr. ADAMS. We did not have a mail cover on her, but on the Socialist Workers Party. Her name came to our attention through that. We did not investigate her in the sense of going out and conducting neighborhood inquiries and asking people "What do you know about Miss Paton?"

Mr. KASTEN. How can it take you 6 months to find out whether this person was a high school student in New Jersey?

Mr. ADAMS. I would have to look at the particular file, but I would also like to state we don't have one case per one agent and when a violation or question comes to our attention, a matter within our jurisdiction, that an agent starts out of the door handling that. Each agent in the FBI carries about 30 to 35 investigative matters at any one time, and they are handled in orders of priority.

So what the actual time limit was, I would have to refer to the file. I would be glad to make it available to the committee subsequently, but we just don't have people waiting, and this is the only case you have, you go out and handle it.

Mr. KASTEN. Thank you, Mr. Chairman.

Chairman PIKE. Thank you. Mr. Treen, I appreciate your yielding a couple of minutes to me.

Mr. Adams, I want to get back to this report in which I have a particular interest, because it involves my own office. In this report Ron Johnson was asked to call Marcus Raskin and did so on July 26, 1972. I didn't read all of it. I am going to read some more of it now. "Raskin was expected to return the call when he returned to IPS."

Now that sounds to me like it involves telephone calls, but I don't know for sure. So, I do ask you to check exactly how that report got into this file. Now I read further:

> Information copies of this report are being designated for Atlanta, Boston, and San Francisco, inasmuch as those offices each have offshoot institutes in their territories and since this report underscores the IPS attack on the FBI.

Now, I am sort of interested when I become a part of a report alleging an attack by the IPS on the FBI.

I know what the FBI was doing to the IPS, but would you tell me what the nature was of the attack by the IPS, in which I am somehow involved, on the FBI?

Mr. ADAMS. First, from the reading as you gave it to me, there doesn't appear to be any allegation that you were part of any attack on the FBI.

Chairman PIKE. Well, what is the nature of the attack by the IPS on the FBI?

Mr. ADAMS. Could I consult with one of the gentlemen who may know?

He is unable to be of assistance in that regard. I would have to check and see what that particular statement was referring to.

[The reply is included in the Bureau's November 28, 1975, memorandum. See pages 1123–1127 of the appendixes.]

Chairman PIKE. I yield back Mr. Treen his remaining time.

Mr. TREEN. I would like to reserve the last minute until after Mr. Field's questions.

Chairman PIKE. Fine. Mr. Field?

Mr. FIELD. Thank you, Mr. Chairman.

Mr. Wannall, I would like to ask you a few questions, and I would like to begin with some of the statements made in Mr. Adams' opening statement.

In that statement he refers to instructions issued by President Roosevelt in 1934. He refers to 1936 instructions concerning Fascist and Communist activities with a capital "C." He refers to a 1938 approval by President Roosevelt of a Hoover plan. He refers to a Presidential directive dated in 1939. And he goes on in that tone.

In your view, have the subversive threats to the United States, and your authority for investigating them, changed since the wartime climate of the 1940's? Have they changed in the last quarter of a century?

Mr. WANNALL. Yes, sir; in my view they have.

Mr. FIELD. Do you think that the FBI should have a political philosophy?

Mr. WANNALL. I don't think the FBI does have a political philosophy.

Mr. FIELD. You don't have a political philosophy. So, in other words, your rationale for investigating the Socialist Workers Party would be based either upon some violation of law or upon some threat to the United States. Would that be correct?

Mr. WANNALL. Or for the intelligence needs of the Executive; yes, sir.

Mr. FIELD. And the intelligence needs would be based upon a threat to the United States; is that not correct?

Mr. WANNALL. A potential threat, I would say.

Mr. FIELD. A potential threat to the United States.

In 30 years, you have never found a violation of any Federal law by the Socialist Workers Party, whom you have surveilled extensively. Could you say the same about the Republican and Democratic Parties?

Mr. WANNALL. May I, in answer to your question, quote from a special issue of the International Socialist Review, dated November 7, 1975. This is a monthly magazine supplement to the Militant, which is the official Socialist Workers Party newspaper, and this special issue is devoted to a single document—a resolution approved by the 26th National Convention of the Socialist Workers Party, entitled "The Decline of American Capital: Prospects for a Socialist Revolution."

It includes the following statements of the Socialist Workers Party policy:

> The world crisis of capitalism does not favor extensive and effective long-term capitalism reform in the United States but development of the requisites for a revolution.

That is at page 5, paragraph 1——

Mr. FIELD. Mr. Wannall, are you aware revolution can take place in nonviolent ways? Are you aware that the Socialist Workers Party has never advocated a violent revolution and witnesses will testify to that this afternoon?

You were unresponsive to the question, which was, have you such a record with respect to the Republican and Democratic Parties?

Mr. WANNALL. No, sir.

Mr. FIELD. Are you aware that the violations of the law that you cited, back in 1941, were declared unconstitutional—that the provisions of the Smith Act under which you prosecuted the Socialist Workers Party were subsequently declared unconstitutional?

Mr. WANNALL. There were portions of it in 1969 in the *Ohio* case which were declared to be unconstitutional.

Mr. FIELD. And the Supreme Court upheld that?

Mr. WANNALL. That is correct.

Mr. FIELD. Mr. Adams cited that as one of the bases on which you continue to surveil the SWP—because even though there may not be any specific statute any more, there had been violations of the Smith Act. Is that correct?

Mr. WANNALL. We raised that question with the Department of Justice and in November of 1974—within the past year—we were advised that the Smith Act or portions of it have been declared——

Mr. FIELD. Mr. Adams specifically said something to the effect that whereas they had not taken any positive steps——

Mr. WANNALL. Would you repeat your question, please?

Mr. FIELD. Mr. Adams said something to the effect that whereas they had engaged in no overt acts to violently overthrow the Government of the United States, advocacy had been a basis of the Smith Act violations and was the reason you were continuing to surveil.

You are continuing to surveil on the basis of something that has now been declared unconstitutional. Is that correct?

Mr. WANNALL. No, sir, it is not correct.

Mr. FIELD. Why are you continuing to surveil?

Mr. WANNALL. The Smith Act, in all its parts, has not been declared unconstitutional.

Mr. FIELD. The part you refer to and the part that refers only to the nonactivity—advocacy of views—has been declared unconstitutional. Is that the basis on which you surveil the SWP?

Mr. WANNALL. No, sir.

Mr. FIELD. On what basis do you surveil it?

Mr. WANNALL. On the basis of the activity in which it is engaged.

Mr. FIELD. Has it engaged in any violent activities or advocated violent activities—not revolution?

Mr. WANNALL. Not violent.

Mr. FIELD. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Treen.

Mr. TREEN. I think I have just 1 minute.

Let me ask you this, sir. Do any of you have information that either the National Republican or National Democratic Parties have ever advocated the violent overthrow of the U.S. Government?

Mr. WANNALL. No, sir.

Mr. TREEN. What is the status of morale within the FBI today as compared to, let's say, 5 years ago and 10 years ago?

Mr. ADAMS. I think morale in the FBI over the years has been fairly high. There have been highs and lows, of course, but based on my contact with FBI employees, I think we generally run a fairly high morale in the FBI.

Mr. TREEN. Is that true today?

Mr. ADAMS. Yes, sir.

Mr. TREEN. Are you having any difficulties with recruitment of agents?

Mr. ADAMS. Absolutely not. Only in certain areas. Overall, we have more applicants than we can possibly consider.

Mr. TREEN. What areas are you having difficulty in?

Mr. ADAMS. We still have difficulty recruiting in the minorities—blacks, Spanish-speaking, and women. Those are the only categories we encounter difficulty in recruiting.

Mr. TREEN. Thank you. That is all.

Chairman PIKE. Thank you, gentlemen. I realize that some of the questioning today was sort of adversary in nature. I can only say that we tend to be adversary in nature with people with whom we agree as well as with people with whom we disagree sometimes. So I do reiterate my request that someone be available—and I would particularly request, I think, Mr. Wannall to be available—for rebuttal or for additional questions later on, because we are now going to some other witnesses. I thank you very much for your testimony.

Our next witness will be a former FBI agent, Mr. Arthur Murtagh. Mr. Murtagh, when the present witnesses have vacated the table, I would appreciate it if you would go up there.

Just for the benefit of the members of the committee, after Mr. Murtagh has testified, our next witness will be Mr. Robert Hardy, a former FBI informant.

Go ahead, Mr. Murtagh. We thank you for your presence here today.

STATEMENT OF ARTHUR MURTAGH, RETIRED FBI SPECIAL AGENT

Mr. MURTAGH. Mr. Chairman and members of the committee: I welcome this opportunity to testify before you. As a retired special agent of the FBI who loyally served the Bureau for 20 years and who was assigned to the FBI's internal security intelligence squad in Atlanta for 10 years—from 1960 approximately until 1971—I would hope I could give this committee insight into the Bureau's intelligence practices not from the theoretical viewpoint of a policymaker but from the practical viewpoint of a field agent.

The thrust of my comments will be to attempt to have you see that it is possible for the structure of an organization such as the Bureau to be responsible for much wrongdoing without any measurable culpability on the part of individuals working in the lower levels of the organization. For example, I was at one time asked to obtain through my informants handwriting samples of a gentleman who is now a member of your body, the Honorable Andrew Young of Atlanta. I was also asked to obtain handwriting samples of several of his associates in Dr. Martin Luther King's Southern Christian Leadership Conference. I was an agent with a lot of experience at the time this request came to me from my superior. I was aware that the manner in which the request was made was such that the information was to be used for one of the illegal purposes of the Bureau.

The request was made after regular working hours orally to me in private. I turned to my supervisor who was known among the agents as "Colonel Klink" and told him that I flatly refused to comply with his request and that he could tell his counterpart at the Bureau who had called him on the Watts line seeking the information that I knew damn well it was going to be used in an unrecorded counterintelligence operation to destroy Mr. Young's chances of getting elected to

the House of Representatives. The request came only a few days after Mr. Young had announced that he was seeking a seat in the House.

My supervisor's reaction was, "Now don't get excited, Art, we will make some other arrangement." And I responded, "I suppose you will." And I told him that if his counterpart at the Bureau wanted to force the issue, we would do it in the open with lots of publicity. That was the last I heard of that request from my supervisor, and I noticed later that Mr. Young made it to your august body so I must assume that my supervisor had no other source at that time that could get the information for him. You, of course, will find no record of the above incident in the Bureau files.

I am cognizant of your mandate to investigate the intelligence operations of the Bureau and of the great mass of information that has already been uncovered regarding these operations. I believe, however, that a clear and precise picture of the Bureau's intelligence practices can only be seen by analyzing the administrative structure, the entrenched biases and the pervasive indoctrinated FBI mentality that commands and controls their intelligence practices.

In the incident involving Representative Andrew Young, if the same request had been made to most agents who had reached the level in the Bureau that I was at that time—and with most of the agents I came in contact with during the period that the Young incident took place, for that matter—they would have routinely complied with their supervisor's request, simply because they would have gone through a process which would have eliminated all those who saw anything wrong with the type of activity contemplated by their supervisor. The ofttimes expressed feelings of all of the personnel working in conjunction with me on the intelligence squad in Atlanta during the period that the Young incident took place accounts for the fact that the information requested would have been routinely obtained. The feeling was that the racial movements in which Mr. Young was engaged, although not illegal per se, were inimicable to the value standards that the squad members subscribed to. If it took a little illegal activity to compromise the movement, then so be it. Past experience had made it clear to all agents that Mr. Hoover had no sympathy with any racial movement.

You may justly inquire at this juncture how I happened to survive in the Bureau if these selection processes weeded those in opposition out. The answer was and is that I was both stubborn and smart enough to keep my record good and clear and those around me knew it. As an attorney and someone who believed in the rule of law, I wouldn't conform if it required me to be dishonest or to violate the law, and I knew the law. I can sorrowfully say that my views were not shared by my peers universally in the Bureau. At this point, I would like to interject a note that is not in the written section here and say that great numbers of the agents that I worked with were of the highest caliber, fine gentlemen that I have great respect for, and it is not with any pleasure that I come here to relate to you circumstances that I think should be corrected. It is with a deep-seated embarrassment that I have to say that I was a member of this organization for as many years as I was and was unable to come to you during that period.

And back to the transcript, I joined the FBI as an agent in 1951 and retired in 1971. By 1957, the weaknesses in the structure of the

Bureau had become all too obvious to me. In 1960, as a result of administrative action taken against me by Mr. Hoover, on account of an alleged problem of overweight, I found myself in a YMCA room in Macon, Ga., away from my family for a period of about 5 months. During that time, I did a great deal of soul-searching and reading in an effort to make a decision as to whether I should leave the Bureau and attempt to expose the weaknesses in structure—and I underscore structure at every point, because it is the structure that is wrong with the Bureau and not the agent-personnel—whether I should expose the weaknesses in structure or stay in the Bureau and wait for a more opportune time when the probability of success in correcting these weaknesses would be greater. I decided to remain and observe, but I resolved that I would under no circumstances participate in any of the unethical or illegal activities that were by then so prevalent in the Bureau.

I was able to observe from my vantage point in the FBI that the Bureau was on a collision course of collapse which would result in congressional investigation, and I said so openly among agent associates from 1960 onward—until the time I left the Bureau in 1971. I counseled with many, yes, practically all, of the agent-personnel with whom I came in contact at this time and for the remaining 11 years that I spent in the Bureau, and found that they were vaguely aware in 1960 of the process of which I speak, and they were acutely aware of it in 1971.

The inherent administrative processes within the Bureau which I have alluded to before, which adversely affect the Bureau's intelligence functions, can be summarized as follows:

NO. 1 IS SECRECY

Mr. Hoover threw a veil of secrecy over the Bureau at its very inception, though the great mass of information handled by the Bureau could be placed on billboards in the middle of Times Square and the public interest would not block the sidewalks, but secrecy served many useful purposes to the Bureau. It made it impossible for the public or Congress to know anything about what was going on internally. It gave the Bureau operation an aura of mystery and created a type of fear and respect for the Bureau which I personally feel is unhealthy in a society that strives to be both democratic and open.

NO. 2: COMPLETE UNFETTERED CONTROL OF THE PROCESS OF SELECTING PERSONNEL

Gentlemen, I submit this is the most important thing that I will say to you today—complete and unfettered control of the process of selecting personnel.

This is an area to which your committee should direct its greatest efforts, for it was through a selection process exempt from Civil Service under the sole control of the Director that Mr. Hoover was able over a period of nearly 50 years to bring in thousands of carefully selected agent-personnel who were as politically disposed to the right as he was and then through a personnel system, which offered no possibility at all for an agent to question Hoover's ethics or methods, to

force thousands of those selected to leave the Bureau in utter disgust simply because they had no avenue through which they could air grievances involving unethical or illegal conduct. For example—and I have many, but I will give you one—a young agent whom I know was sent to Albany, Ga., for his first office. His wife was a sociologist. She was offered a position in the Head Start Project in Albany, Ga., that was under the direction of a black attorney named King. I think his initials were A. B., but I know his last name was King. The agent reported this information to his superior in Albany. He was immediately summoned to Atlanta by the agent in charge and told that his wife could not take the job because they did not want FBI personnel or their wives associated with blacks who were active in the civil rights movements. This agent subsequently resigned in disgust.

NO. 3: MANIPULATION AND CONTROL OF THE PRESS

The examples of this subject are legion. The one that I am most familiar with was the concerted effort to get what was always referred to in the Bureau as "our friends in the media" to publish personal and very private information taken from the wiretap which itself was of questionable legal validity on Dr. Martin Luther King. Of course, the day-to-day manipulation was accomplished by leaking choice items to our "friends."

It was not at all uncommon to learn of some politically damaging information about some leading figure in politics as having been developed by the Bureau; and then, always at a time when it would be most damaging to the individual, the information would some way show up in the Chicago Tribune or some other friend of the Bureau. If the information was more valuable for purposes of political blackmail by holding it, than by giving it to the press, it was withheld. The leaked information always seemed to involve persons of liberal persuasion. (From my years in the Bureau, I can only assume that the Bureau had deduced that persons of liberal persuasion are somehow more apt to sleep with somebody else's wife, drink too much liquor, or be sexually perverted than are solid conservatives.)

NO. 4: ABSOLUTE AUTHORITY AT THE TOP AND BLIND LOYALTY AT THE BOTTOM AIDED BY THE SELECTION PROCESS

This question of loyalty is interesting since, of course, we all like our friends to be loyal to us and we respect it as a quality in man. The Watergate hearings were particularly informative on this point, as you will recall. Each of the witnesses who were implicated in wrongdoing in Watergate opened their statements with a bit on loyalty and went on to tell eventually how in the name of loyalty they had violated the law. The Bureau has its parallel in this concept of blind loyalty.

I might interject here I think I saw some of it a few minutes ago. Personnel have been willing to forego their own integrity to allow improper, unethical, or illegal activity by the Bureau to go on unchallenged rather than injure the Bureau by a public attack which many regard as disloyal to the Bureau.

NO. 5: THE HARSH DISCIPLINARY MEASURES

I understand these may have been changed somewhat under Mr. Kelley.

The harsh disciplinary measures which were the hallmark of Mr. Hoover's personnel policy are too extensive to go into at length here. They sometimes resulted in humorous situations but very often in very tragic situations.

As an illustration of that, I might say when coming down here from northern New York, my wife became terribly distraught and she turned to me and said, "Do you think they will take your pension away from you?" And I assured her, "No, honey, they won't."

By the mid-1960's these harsh disciplinary measures had so eroded confidence in Hoover among the agent-personnel that the policy of "tell the man nothing" had reached a point where information could actually get into the hands of Bureau supervisors, and it still would not get to Hoover because the harshness of the disciplinary action made the integrity of all agents very pliable.

In a democracy, domination of a powerful organization such as the Federal Bureau of Investigation by any segment of the political spectrum threatens the very existence of democracy.

The process results in the organization being used to aid the political and philosophical friends or causes of the leader and to neutralize any opposition.

Mr. Hoover's vendetta against Dr. Martin Luther King illustrates this process in a graphic manner.

I submit that the FBI now constitutes a degenerate dictatorship in which the structure still remains but from which public support is rapidly being withdrawn. I further submit that such a dictatorship is incompatible with the constitutional concepts upon which this Nation was founded. I feel that this can be historically paralleled with the ascension of other dictatorships throughout the world.

I make the following recommendations:

I recommend that any reforms which you consider deal directly with each of the points I mentioned in the establishment of the process, but I urge you to give particularly careful attention to the process of agent selection.

In order to insure against reestablishment of uncontrollable power within the Bureau I would suggest the following: 1. Seek the removal of all entrenched personnel, including the Director, as quickly as is practical. (Not in a vindictive way, but for the good of the service.) These gentlemen have been trapped into the system; they have been unculturalized; and they can't act differently than they act, but they are a serious threat to the freedom and security of the United States under our Constitution.

The second thing: Establish a system by which line-level personnel can report unethical or illegal activity within the Bureau to an outside control agency. Incidentally, I was very happy to hear Mr. Adams say this morning that the Bureau would be willing to submit to an outside control agency. It is only a sad thing they didn't do it 20 years ago and we wouldn't be here today.

Although there are some constitutional questions involved, I would recommend that the control agency be under the judiciary, thus

extending the concept of checks and balances, and that the time necessary for setting up hearings and resolving difficulties be extremely short, maybe as little as 7 days so that corruptive processes could not get started.

No. 3: That all personnel working within the agency and all new personnel working within the agency be required to attend instructional classes given by various educational institutions throughout the country in which the rights and duties of Bureau employees would be thoroughly taught so that we would not have people like Jim McCord in the Watergate situation telling the Senate or the House in years to come that he thought that what was obviously illegal could be made legal by the flick of a pen by the Attorney General or the Director. This concept was very prevalent in the Bureau when I was there. If Mr. Hoover ever said something, no one ever questioned whether he was right or wrong, legal or ethical, illegal or otherwise. There was never anything taught in the Bureau schools to equip agents to make decisions they made in this area.

No. 4: Legislate the process of agent selection in such a way that future personnel would represent the full spectrum of American society instead of only a narrow segment as it now does. Either reduce the pay of agent personnel or establish educational requirements for admission that would justify the current high-pay standards. I would prefer that the standards be made higher and leave the pay where it is.

No. 5: Legislative controls regarding the release of information from the Bureau which will prevent the Bureau from using the wealth of information it collects at Government expense as a means of press manipulation. (If Quinn Martin Productions can examine Bureau records and produce a television play, as they did in the *Philadelphia, Mississippi*, case, and, incidentally, I worked on that case at great length and I know the circumstances, and they produced this 2-hour movie which was on NBC last spring, and the picture of what actually happened down there, from my viewpoint, was very badly distored. The movie was made in such a way as to protect the Bureau image and protect the Bureau's relationship with the Mississippi State Police.)

And it had many things in there that I would not have put in, and I think anyone of a moderate liberal persuasion would not have put in.

So the legislation should provide if anybody can look at the Bureau records and write a book, if any special person can, anybody can. If we are going to have a free press, let's have it free all the way, in other words; and I think this restraint the Bureau has used in making the records available to writers and to the press is a sort of reverse or inverse abridgment of the first amendment of those who weren't able to get to these records.

I think, gentlemen, that if those recommendations, or some like it, are put into effect, that the Bureau can be reestablished as an organization in the Justice Department which is a service body for the U.S. Government, which belongs to the people, and the Bureau can be brought back into perspective and do an excellent job, and it has a big job to do. Thank you very much.

[The FBI's response to the allegations made by Mr. Murtagh during this hearing is printed on pages 1129–1132 of the appendixes.]

Chairman PIKE. Thank you very much, Mr. Murtagh. Obviously, you feel very strongly on this subject, and it took a certain amount of courage on your part to be here.

Rather than attempt to question at this time, we do have one other statement by a former sometime-employee of the FBI, Mr. Robert Hardy. It is a very short statement, and I think perhaps we can get that in before we break for lunch.

If Mr. Hardy would take the table. Bring the microphone close to you, Mr. Hardy, and go right ahead.

STATEMENT OF ROBERT HARDY, FORMER FBI INFORMANT

Mr. HARDY. Mr. Chairman and committee members, my name is Robert Hardy. I am 37 years old and I live in Camden, N.J. I am married and the father of four children. I support myself and my family as a general contractor. I have served my country in the U.S. Marine Corps, and on June 25, 1971, became an FBI informer.

I am not proud that I was an FBI informer. I am not proud of what happened as a result of my being an informer. I only hope and pray that by coming here today I can right some of the wrong that was committed. Perhaps we all can learn a lesson from what has happened in my case so that it can never happen again.

On June 24, 1971, a longtime friend of mine was having dinner at my house. He was upset. He had been active in the antiwar movement in our area. He related to me that a plan to enter the Camden draft board had been discovered by the FBI and had fallen through. I told him that such a plan was senseless, and I discouraged him from considering any such action. I was concerned, however, that a group of people, some of whom I had known for years and considered good, law-abiding Americans, would consider such action in order to protest the war.

The following day I went to the FBI office in Camden and asked them for advice. I told them that I did not want my friends to go to jail. They told me, at that time, just to keep them posted on developments. I then went to the group of people I have just mentioned and in a short time they had taken me into their confidence as a member and fellow sympathizer.

At first the FBI instructed me not to present any new thoughts or ideas to the group. However, after a while they encouraged me to suggest to the group the exact illegal activity about which I had originally come to them. They told me that all they wanted was enough evidence of a conspiracy to raid the draft board. They told me that this would be a lot better than if some of my friends were charged with the actual crime itself. I was greatly confused at this time, but I trusted the FBI and eventually I carried out their wishes.

By mid-July I had gained a strong leadership position within the group. I told the FBI, with whom I was in daily contact at this time, that this was not quite right. I was no longer a mere informer, but was now a promoter or provocateur. They told me to continue.

If I may interject in the statement here, the words "informer" and "provocateur" were not in my vocabulary at the time. These were words that were put on me by the press and by the FBI after the actual crime had taken place—or the break-in.

In the course of the next month, upon the instructions of my FBI agents, my leadership role increased to the point that it became absurd. I was not only encouraging the group to raid the Camden draft board; I was initiating all the plans to do so. The way I did this was very simple. I provided them with constant moral encouragement. I provided them with the tools they needed—ladders, ropes, drills, bits, hammers, and so forth. I provided them with food to sustain them during the course of the preparation. All this was paid by the FBI. They paid me also, on a regular basis, for my services.

As a man who had been in the general contracting business most of my adult life, I provided invaluable technical assistance to the group. Mr. Chairman, you would not believe what an inept band of bungling burglars these people were. There were about 30 persons in the group. It was a loose-knit, antiwar group composed of college professors, clergy, students, and concerned citizens. They were dreamers, who talked a lot but did nothing.

On instructions, I once tried to give them guns, but they refused.

Mr. JOHNSON. Mr. Chairman?

Chairman PIKE. Mr. Johnson.

Mr. JOHNSON. May I interrupt at this point, because the gentleman says "on instructions," and I believe that in view of the testimony that came from Mr. Adams that that should be more clearly elucidated.

On instructions from whom?

Mr. HARDY. At the time we were having riots in the city of Camden and the FBI was concerned for the safety of their agents, myself and the people involved in what became known as the Camden 28. They asked me to check to see if they had weapons or a tendency for violence and I offered one of their members a gun which I did not have and would not have provided to them. It was to check out whether they were——

Mr. JOHNSON. You didn't make that clear. You said "on instructions. I once tried to give them guns."

Mr. HARDY. Yes, my agent that I had been in contact with asked me, or suggested that I ask them, if they would need any guns for self protection since there was a rioting condition in the city of Camden.

Chairman PIKE. Go ahead.

Mr. HARDY. They were the most nonviolent, well-intentioned people I ever met in my life. But most of them couldn't even tie a knot properly. I am not proud to say this, but with respect to breaking into the draft board. I taught them everything they knew.

Again breaking from the statement, every draft board that had been broken into within the United States had been broken into from the inside. This was the first draft board that was to be broken into from the outside. They had no experience in this area.

I taught them how to cut glass and open windows without making any noise. I taught them how to open file cabinets without a key. I rented trucks for them. I obtained a floor plan of the draft board building for them. I taught them how to climb ladders easily and walk on the edge of a roof without falling. My neighbors began to wonder why I had this crowd of people climbing up the side of my house and parading along the edge of my roof every day. I began to feel like the Pied Piper.

I had convinced the group to break into the draft board on either August 21 or August 22. A week before the appointed time I went to the FBI numerous times and told them that my job had been accomplished. The conspiracy had taken place and I wanted it to be stopped. It was not stopped. I was told there were 100 FBI agents in the area for the occasion. I protested vigorously that I had been double-crossed. The FBI apologized to me and told me that the new orders had come directly from the little White House in California. They told me it was too late for me to pull out.

Members of the committee, the rest is history. In the early hours of August 22 a group of people were caught and arrested for breaking into the Camden draft board. Violence and lawless conduct by the radical left had been averted. The FBI, again, had gotten its man. The country could now see positive proof that the administration was correct in warning the country about the threat from the left.

I will never forget the role I played in this abuse of American justice. I am sure such things have happened before, but I am here to try to prevent them from happening again.

[Space limitations precluded printing the FBI's 259-page response to the allegations made by Mr. Hardy during this hearing. The Bureau's transmittal memorandum is printed on page 1133 of the appendixes. The response is in the committee files.]

Chairman PIKE. Thank you very much.

The committee will stand in recess until 2 this afternoon.

[Whereupon, at 12:10 p.m. the committee was recessed, to reconvene at 2 p.m. the same day.]

AFTERNOON SESSION

Chairman PIKE. The committee will come to order.

Because of the time constraints we have, our procedure is going to be to go through the prepared statements of all of the remaining witnesses—and we have five of them—after which we will go into questions.

I understand that some of the witnesses do have to leave. We will understand if they really have to go.

Our first witness will be Ms. Lori Paton, who I understand is not a member of the Socialist Workers Party. Please proceed with your statement.

STATEMENT OF LORI PATON, STUDENT, UNIVERSITY OF VIRGINIA

Ms. PATON. My name is Lori Paton. I am now a sophomore at the University of Virginia. I am here today to talk with you about something that happened to me when I was a student at West Morris Mendham High School in Mendham, N.J.

In February of 1973, I was one of about 25 students enrolled in a social studies course called "Left to Right." As the title suggests, this course involved the study of the spectrum of the contemporary American political scene. For a class assignment, I wrote a letter to what I thought to be the Socialist Labor Party, requesting information about its programs and policies. However, I had inadvertently addressed the letter to the Socialist Workers Party. At that time, as I later learned, the FBI was conducting surveillance of all mail ad-

dressed to the Social Workers Party. Thus, unknown to me, the FBI acquired my name from the letter I sent and began a criminal investigation to determine if I was engaged in "subversive activities." (I have submitted Exhibit "A," the FBI memorandum directing that investigation.) The FBI contacted the Morris County Credit Bureau and the Police Chief of Chester, N.J., and made inquiries about my family and me. The FBI next appeared at my high school and told the principal that I was under investigation because of contact with the Socialist Workers Party. After the agent left, my parents and I were notified by a school official of the investigation. That was when I first became aware that my letter had been intercepted and that I was the subject of an FBI investigation. My first reaction was anger because I had been investigated without my knowledge and I felt that at least I should have been contacted by the agent. Shortly after that, our high school newspaper learned of the FBI's investigation and wrote an article about it. This public exposure that I was the subject of an FBI investigation caused me a great deal of embarrassment among my fellow students and townspeople. I was subjected to remarks by other students and I felt I was an object of ridicule. I was no longer known for myself but instead I became known as a person who was investigated by the FBI. I later became notorious among townspeople, many of whom felt that I should not rock the boat by making an issue of this incident.

When I became aware of the investigation, I was concerned about its possible effects on my career plans. I was approaching my senior year in high school and was looking forward to college. My plans were to major in Chinese and to find employment in Government service. I knew that the fact that I had been investigated by the FBI might adversely affect my career plans, particularly if I wanted work for the Government. I found this possibility very distressing.

Because of the above concerns, my teacher in the "Left to Right" course, Mr. Gabrielson, suggested that we ask the ACLU for advice. My parents said that they would support me in anything I did, so Mr. Gabrielson contacted the ACLU. At that time, I wanted to find out what was in my file and whether it could have an effect on my later life. My lawyer, Prof. Frank Askin of Rutgers Law School, who is with me today, sent a letter to the FBI asking why they had investigated me and if there were any FBI files concerning me. I was shocked when FBI Director LaPrade wrote back denying that I had been the subject of an investigation. (I attach as Exhibit "B" Director LaPrade's reply letter.)

[Committee note.—The references to "Director LaPrade" are in error. Mr. LaPrade was the special agent in charge of the Bureau's Newark, N.J., office.]

Ms. PATON. I realized that the FBI's denial was false because I obviously had been investigated. At this point I was very upset over the conduct of the FBI. I was initially surprised to find that I had been the subject of an FBI investigation but I found it even more incredible that a representative of my Government would lie to me in this way. The possibility that I had an FBI file and my disillusionment with the Government's conduct led me to bring a lawsuit seeking expungement of my file and damages for the violation of my constitutional rights. That suit is still pending. The U.S. Court of Ap-

peals for the Third Circuit ruled recently that I was entitled to sue the FBI agents involved for damages and injunctive relief.

[Exhibits "A" and "B" are printed on pages 1201–1202, and the FBI's response to allegations made by Ms. Paton on pages 1123–1127, of the appendixes.]

Chairman PIKE. Thank you very much, Lori.

The next witness will be Mr. Peter Camejo, who, as I understand it, is a member of the Socialist Workers Party. I would like to make it very clear at this point that nobody on this committee has asked, nor do they intend to ask, any questions that sound like "Are you now or have you ever been a member of ———."

Please proceed.

STATEMENT OF PETE CAMEJO, REPRESENTATIVE OF THE SOCIALIST WORKERS PARTY

Mr. CAMEJO. I am now and I have been.

My name is Peter Camejo. As the Presidential candidate of the Socialist Workers Party, I would like to thank the committee for this opportunity to testify. I realize that you disagree with many of my views. Until today, the investigations of FBI and CIA activities have not given those of us who have been the victims of these agencies an opportunity to be heard. Of course, there are many other victims of these FBI and CIA activities in addition to the SWP.

Because the FBI spends so much time and money trying to disrupt the SWP, I think it's important that I explain briefly exactly who we are and what we stand for.

We believe that this society needs to be recognized on the basis of production for human needs, not for private profit. We think that a political party based on the working class is needed. That is why we are offering candidates in the 1976 elections.

Both by vote and the number of States for which we have gained ballot status in recent years, we are the fourth largest political party in the United States—after the Democratic, Republican, and American Independent Parties. In 1974 our vote rose to 440,000 in just 10 States. In 1976 we hope to be on the ballot in 30 to 40 States.

On many issues our views are shared by many, if not most, Americans. These are issues such as the right of every worker to a job, the right of blacks to attend desegregated schools, the importance of organizing massive support for the equal rights amendment for women, and opposition to sending American soldiers to prop up reactionary governments around the world.

On the question of establishing socialism, however, we are in a minority. Our goal is to win a majority to our point of view.

We run in elections to explain our ideas and win support for our program. In addition, our members participate in organization demonstrations, such as the large peaceful antiwar marches that helped force an end to the Vietnam war. Many of our members are active in the labor movement and the struggle to desegregate the schools. We hold public meetings and distribute leaflets, books, and newspapers.

These are all activities protected by the Bill of Rights.

The Socialist Workers Party doesn't advocate or engage in violent or illegal activity. The FBI has never produced any evidence to the

contrary. But, in spite of that, they admit that they began wiretapping us in 1945. They've burglarized us, investigated us, bugged our offices, covered our mail, visited our members, gotten them fired from jobs, harassed our election campaigns and generally made efforts to prevent us from getting a hearing for our views.

But since the exposure of the illegal and unconstitutional FBI Cointelpro tactics, the FBI has been trying to fool the public with a claim that it stopped disrupting political activities back in April 1971. But we know that's not the case. I'm turning over to the committee a list of some 225 incidents of FBI harassment that have taken place since April 1971. These include FBI visits to landlords, employers, and parents of members and supporters of my party, and visits to members and supporters themselves.

Two of the witnesses with me, Kathy Sledge and Lori Paton will describe two incidents from that list of 225.

[The list referred to, provided by the Political Rights Defense Fund and dated November 18, 1975, and related affidavits of Matilde Zimmerman and Bruce L. Bloy are printed on pages 1171–1200 of the appendixes.]

Mr. CAMEJO. In the FBI's view, the SWP continues to be a legitimate target for disruption. They have been attempting it for decades and they are continuing it right now.

In their public explanations, sometimes they say this is because we are terrorists, or because we are subversives, or because we advocate violence. I would like to respond to these charges.

First, the FBI itself has provided us with proof that their charges are false. Let's look at the record. The FBI admits it began wiretapping our party in 1945. Since then the FBI has not brought a single indictment against a single member of the SWP. Not one indictment against a single member in 30 years of the tightest imaginable surveillance.

As was pointed out earlier today, the Democratic and Republican Parties, on the other hand, cannot point to such a record.

Second, I call your attention to the 1961 FBI memorandum that launched the SWP disruption program. Here they give the FBI's real reason for this war of disruption. This document, which was never intended for public view, stands in sharp contrast to their public charges of violent and illegal acts. I was astonished this morning that the FBI failed to make a single reference to the Cointelpro program in their statements.

The memo said:

> The SWP has * * * been openly espousing its line * * * through running candidates for public office and strongly directing and/or supporting such causes as Castro's Cuba and integration problem arising in the South.

They don't charge us with violence, not assassinations, not kidnapping. Our crimes, to the FBI, were running candidates supporting the fight against segregation, and opposing this Government's criminal attempts to overthrow the Castro regime.

What about the public charges that the FBI makes? Is the SWP terrorist? Absolutely not. We believe, as Marxists have always believed, that the philosophy and methods of terrorism are damaging to the workers' movement. We believe that society can only be changed

through the efforts of millions, through broad social forces representing the overwhelming majority, not through acts of terror.

Advocacy of terrorism is incompatible with membership in the SWP. And, I repeat, no evidence has ever been produced by the Government that the SWP advocates or engages in terrorism or other illegal acts of violence.

To take up another charge: Is the SWP run by a foreign power or organization? No. We are internationalists. We work for the release of political prisoners in Chile, in Spain, in the Soviet Union and in China. We are opposed to totalitarianism everywhere in the world, whether in the U.S.S.R. or in Spain. We meet with Socialists from other countries to exchange ideas and to discuss major world political developments. But these are not illegal acts.

We maintain a relationship of fraternal solidarity with the Fourth International. Does this violate the Voorhis Act? No. We decide on our own policies and principles through our own conventions and elected bodies. And although we strongly disagree with the Voorhis Act, since it was passed in 1940 we have not been affiliated to the Fourth International. No Government agency has ever produced any evidence to the contrary.

In a recent editorial condemning the continuing FBI harassment of the Socialist Workers Party, the New York Times pointed out that "the SWP is a legal American political organization."

The FBI has no evidence to dispute that. What they are trying to do is to effectively outlaw our ideas. In their defense against our suit, in place of evidence of illegal SWP activity they are reduced to quoting from books written by Marx and Lenin.

The notion that some ideas are "subversive" is dangerous for everyone who may disagree with an administration in power. If it can be applied to our ideas today, it will be applied to others tomorrow.

Of course, it is already clear that many dissenting groups other than SWP have been the targets of FBI harassment and attempted disruption, especially black individuals and organizations. To help force an end to all political spying, the Socialist Workers Party plans to continue with its landmark suit against the FBI, CIA and similar agencies.

In our opinion, only a tiny corner has been lifted on the shroud of secrecy behind which the FBI, CIA and other secret police agencies operate. Ending this secrecy would be a big step in the direction of bringing their crimes to a halt.

The American people need and deserve all the facts about the past and present secret-police operations carried out behind their backs. I hope this committee will help bring the full truth to light and take steps to bring about the full disclosure of the secret files on the FBI and CIA crimes. Only such steps can give the American people the facts necessary to decide the important issues posed by the actions of the FBI and CIA.

Thank you, Mr. Chairman.

I would like, with the permission of Chairman Pike, to respond extremely briefly to the one contention made by the FBI against us today. They admitted and conceded, and I think this is extremely

important, that we have not engaged in any illegal activity. They have admitted that we are not advocating violance. Instead they presented the "ripe" theory. That is that although we do not do so now, at some later date when things are ripe—you might call it the "rotten-ripe theory"—we will turn rotten and then engage in illegal acts and violence. The FBI probably knows what our position is better than anyone else in this room because they are present in our organization. They have sent informers and agent-provocateurs for decades. They know very well that our goal is to try to win the majority of the American people to establish some basic change. That is what the Declaration of Independence says we have a right to do.

The American people have the right to alter the Government, the economy or anything else they want to do. It is up to them to do that. We don't believe any such social change can come about unless we win the majority. After we win the majority, we do not intend to use violence or carry out illegal activities. All we state is that the majority has a right to carry out its activities. That is what we mean by revolution—the right of the American people to make basic changes, as we did in 1776 and as we did in 1861.

When a majority in this country agreed with our views on Vietnam during the antiwar movement, did the SWP engage in illegal activities? On the contrary, the FBI knows we continued to advocate only legal and peaceful means to get the policies of the United States altered.

Now, I do believe that this ripe theory, however, does apply to the FBI. When they found it ripe, they did engage in illegal activities and when they see the moment is ripe, they are willing to carry out illegal acts, including violence. That has been the case also for other agencies. I wonder when I listen to them here. They say they must continue to have informants in our party. Are they waiting for the moment when it will be ripe, when the majority of the American people turn to our position and they, the FBI, will turn to violence? We will certainly not. Our position is well established in over 30 years in action and by endless evidence before you and by their own admission. What more can be asked than that we be treated like any other party and that the Watergating of my campaign and other activities be ended and the illegal activities of the FBI and CIA be brought to light.

Thank you.

[The FBI's response to the allegations made by Mr. Camejo during this hearing is printed on pages 1137–1144 of the appendixes.]

Chairman PIKE. The House is currently undertaking a vote. The committee will stand in recess until 20 minutes before 3, at which time we will resume.

[Brief recess.]

Mr. STANTON [presiding]. The Select Committee on Intelligence is now reconvened.

We will continue the testimony.

At this time we would like to hear from Kathy Sledge-Lovgren, who is a member of the Socialist Workers Party and who has also been the subject of an investigation.

STATEMENT OF KATHY SLEDGE-LOVGREN, MEMBER OF THE SOCIALIST WORKERS PARTY

Ms. SLEDGE-LOVGREN. My name is Kathy Sledge-Lovgren. I was born in Spokane, and after attending high school there, graduated from the University of Washington in 1973 with a degree in zoology. I am employed by the Veterans' Administration Hospital in cardiological research as a surgical technician.

I first became acquainted with, and later joined, the Young Socialist Alliance while at the University of Washington, because I, like many other Americans at the time, was very much against the war in Vietnam. I felt the YSA was an organization I could agree with. Other organizations were involved in civil disobedience and acts of violence, like "trashing"—a term meaning throwing rocks and breaking windows, et cetera—which I did not then and do not now agree with. Neither, incidentally, does the SWP.

Also, the YSA and SWP were organizations respected for their unyielding demand to keep antiwar demonstrations peaceful and legal. Accordingly, they were able to organize large demonstrations which were both effective and law abiding.

In 1974, a number of things happened to me as a result of an intense FBI investigation of me, allegedly for a job clearance. First, I received a detailed letter from the Civil Service Commission asking me to answer questions about my political views and associations, about my marital status, and whether or not I was still married to one person while living with another.

I was shocked, and upset, over the extent to which the FBI had gone to find out if I was suitable to perform dog surgery. My job was to assist doctors in medical research by doing the surgical preparations on animals—not a job warranting security precautions.

My supervisors were concerned because, to their knowledge, no similar FBI investigation had ever been undertaken regarding an employee of the research staff.

Second, the FBI came to my work unit, called in my fellow workers (one at a time), and asked questions about my loyalty to the Government, whether I advocated the violent overthrow of the Government, if I was a Communist, and whether or not I had tried to sell or hand out subversive literature. My coworkers were upset that they had been brought into the matter at all.

My boss, Dr. Tremann, was outraged and disgusted with the FBI for this disruption. Not only had they caused me a lot of worry and fear for my job, but they also managed to anger my chief supervisor, because they had ordered individuals in my work unit to come up and answer questions without first informing the Director of the hospital.

Third, the FBI questioned all of the tenants in the apartment complex I was managing at the time, asking them if I had had meetings there, or if they had noticed people coming and going, and what my political views were. They also questioned tenants about who I was living with.

My best personal woman friend was called down to an FBI office to answer questions. So, too, was my former boss, who was then living in Chicago. Both were angered by the intrusion.

Worst of all, the FBI embarrassed my family in Spokane. My father is a well-respected and conservative doctor. They came to his office and questioned him about my political ideas and associations. He became greatly worried about the effect on his practice and reputation.

They questioned my mother at home, extensively. As a result, she almost had a nervous breakdown. Both my parents begged me to quit the organization. They feared that I would lose my job.

Until then, my family and I had managed to avoid talking about my politics, and maintain a close-knit relationship, including my uncle (a circuit court judge of the fifth district). We did so—that is, until the FBI caused a breach, which only now is beginning to heal.

Some time after I answered the questions in the Civil Service Commission letter, I found out that my case had been dropped, at least for the time being. Since then, as I have continued to work at the veterans hospital, I have received two promotions. I believe I am considered to be an excellent employee by the management.

I have no police record. I have never committed a crime or any act of violence. I keep my political ideas to myself when with my fellow employees, who have recently honored me by electing me to be their shop steward for the American Federation of Government Employees.

Thank you, Mr. Chairman. Thank you very much for allowing me to come here and hearing what I have to say.

[The FBI's response to the allegations made by Ms. Sledge-Lovgren during this hearing is printed on pages 1145–1147 of the appendixes.]

Mr. STANTON. Thank you, Kathy. We deeply appreciate your testimony.

The next witness will be Robert Silverman, a former employer of a Socialist Workers Party member who was investigated by the FBI.

STATEMENT OF ROBERT GEORGE SILVERMAN, PRESIDENT, PEER ENTERPRISES, LTD.

Mr. SILVERMAN. Mr. Chairman, members of the committee, my name is Robert George Silverman, president of Peer Enterprises, Ltd. This is my best recollection of a visit to my offices at Peer Enterprises, Ltd., during the fall of 1972 by two men who identified themselves as agents of the FBI.

I was called in our sixth floor production office on that day, and told the two agents were present and wished to inquire about an employee. After they produced FBI identification for my father and me, they inquired about Bruce Bloy—and I believe one other employee. I wanted to know the purpose of their inquiry; their response was vague. They asked what kind of employee Bruce was, and after I again asked what the investigation was all about, indicated that Bruce—and this other employee—were members of a political party the FBI was interested in.

My father at this point wanted to know if this meant that his employees were members of the Communist Party, that they were "reds." One of the agents responded by saying he couldn't go into that. My father reacted by expressing his desire to fire both of these people.

By now the exchange between my father and one of the FBI agents had become heated. I interrupted, said that I thought my father was

not thinking clearly, that there would be no firings that day, and that I deeply resented the impression that the agents were creating about Bloy and our other employee by refusing to answer our questions while at the same time indicating by inference that the investigation had to do with their political affiliations. Clearly, any reasonable person would conclude that there must be something unacceptable, undesirable, or illegal about my employees' conduct.

I told the FBI agents that these employees were desirable ones from my standpoint, that they had never given me cause to believe otherwise, and that until such time as they did, Bruce and the other person could remain with my company.

I said further that, as an employer, I had no interest in the political beliefs of my employees, and felt that the FBI had no right to raise such things at an individual's place of employment.

However regrettable my father's response to these FBI questions, it is exactly the sort of response that can be expected from employers approached in this manner by FBI agents—and I told the agents as much.

I would characterize the approach of the agents as presumptive, mysterious, and in this instance aggressive. What was most distressing to me was the presumption on the agents' part that we would necessarily share their point of view.

I would like to be specific with respect to Bruce Bloy and the other employee—who remains nameless out of respect for her privacy. May I state emphatically that I viewed them both as desirable employees with good work habits, and I would be pleased to reemploy them at any time. It is in my view something more than regrettable that these two people should be subjected to such embarrassment, for what third parties suspect they might do, rather than what they have actually done.

Thank you, Mr. Chairman.

[An affidavit sworn to by Bruce L. Bloy is printed on pages 1198–1200 of the appendixes. The FBI's response to the allegations made by Mr. Silverman during this hearing is printed on page 1148 of the appendixes.]

Mr. STANTON. Thank you, Mr. Silverman.

The next witness we will have testimony from is Marcus Raskin, codirector of the Institute for Policy Studies, which has been the subject of a 5½-year FBI investigation.

Mr. Raskin.

STATEMENT OF MARCUS G. RASKIN, CODIRECTOR, THE INSTITUTE FOR POLICY STUDIES

Mr. RASKIN. I count it as a distinct privilege to appear before you today and to answer any questions which will help you in your difficult and important task.

My name is Marcus G. Raskin. I am codirector of the Institute for Policy Studies in Washington, D.C. I am a graduate of the University of Chicago and its law school. I have served in the U.S. Government for 5 years as an adviser to a group of Congressmen and then as a member of the special staff of the National Security Council under President Kennedy. I also served as a member of the Presidential

Panel on Educational Research and Development and as an education adviser in the Bureau of the Budget. I have written half a dozen books in the area of foreign and national security policy, political philosophy and politics, as well as numerous articles which have appeared in scholarly journals, newspapers, and magazines.

Since 1963 I have served as the codirector of the Institute for Policy Studies with Richard J. Barnet, a leading scholar in foreign and economic affairs. In 1963 the Institute for Policy Studies was established as an independent center of research and education in public policy. Its mandate was to pursue inquiry and truth about those matters which were central to a free and democratic society. The institute grew out of a belief that the great universities were too closely identified with ongoing policies of the Federal Government in the area of public policy. We believed that it was necessary to develop an institution which would be financially independent of the Government. Consequently, the institute does not accept Government contracts and grants. We also believe that the major questions of our time are moral and political ones. Those of us who were in the Government found that the fundamental questions about policies were virtually never asked. Thus, moral questions, or even questions about consequences, were almost never addressed. The emphasis was on "getting it done" without much concern with what the "it" was. I might add that this unwillingness in government, difficult in all cases, to ask fundamental moral and political questions, culminated in the Nixon period of government, although as you are aware, the seeds of the Nixon era have been present in American government for many years.

Since 1963, fellows of the institute have published books, studies, reports, and articles on a wide variety of issues and questions. These studies include analysis of the university system, the media, health care, the defense system, military budget, education, multinational corporations, political theory, problems of economics, bureaucratic accountability, problems of religion, the neighborhood, as well as worker dissatisfaction and participation in the decisions of the work place. Books by institute fellows are used in many universities. As you might have guessed from the subject matter considered, institute fellows have been trained in various disciplines. They have received their degrees in law, economics, physics, psychology, sociology, history, and political science. We have also been fortunate in developing a Ph. D. program in conjunction with the Union Graduate School. Seminars and task force discussions are held at the institute. Membership in such study groups usually includes members from the Government, the Congress, educators from universities, people from the different citizen's movements which developed over the last decade, and fellows of the institute. These sessions are open and informal, indeed too informal, as recent revelations suggest. In this regard, institute fellows see themselves as practicing public scholarship. They are "scholars of the people," available to any and all for discussion. They are not on contract to any group or corporation. In this basic sense they are independent of party. From time to time, following the principles of the best social science, the institute has undertaken certain social inventions and projects. For example, we have begun and studied such social inventions as minischools, new towns for people leaving agricultural life as tenant farmers, neighborhood science laboratories, and com-

munity technology labs. We have helped communities begin neighborhood governments. Recently we have initiated a clearinghouse of policy alternatives for people interested in local and State governments.

During this last 13-year period where so many values have been questioned, and where authority has been seen to be unwise and insensitive, people have reacted through the development of movements which they hoped would make real the ideals of American civilization. Movements concerning civil rights, worker participation, ecology, antiwar, consumerism, and women's liberation shaped and reflected a new consciousness on American life. These impulses set the terms of what equality, freedom, and democracy should be.

We at the institute attempted to relate our intellectual studies to this new consciousness. One reason was that people at the institute believe that there was a congruence of the high ideals of these movements to those qualities necessary to make this society a decent and humane one. This point of view was not shared by the various police and intelligence agencies of the Government who feared public scholarship and the kind of scholarship which gave information to anyone who cared to listen or read. For our troubles we have found ourselves harassed, bugged, tailed, broken into, eavesdropped, wiretapped, and burglarized. We know the following, but I am sure that now you know much more.

Every agency which has responded to FOIA requests—the FBI, the CIA, the Office of Naval Intelligence, Army Intelligence—has indicated that they have files on IPS and its fellows.

Reliable testimony indicated that:

(1) The "special services" squad of IRS, the Service's political "hit" squad, collected information in IPS in a special room of the IRS. The IPS tax status underwent special audit for about 6 years. A spurious challenge to this status was finally made; it was overruled upon appeal within the IRS in 1974, as the Watergate scandal began to unravel the Nixon administration's plans to quash domestic discussion.

(2) The FBI targeted informers to infiltrate and report upon IPS meetings and seminars. Informers also attempted to gain employment at IPS, but without success. The Bureau also rifled IPS garbage, reviewing papers involved, reconstructing typewriter tapes which were thrown out, and presumably dispensing with the coffee grounds, tissue papers, paper towels, and other garbage generally thrown out each day. The Bureau files on the institute and its fellows run to several feet of papers already, and only the barest minimum have been revealed.

(3) IPS fellows were targets of the Boston grand jury investigation of the Pentagon Paper, an investigation which never resulted in indictments. Several had subpenas issued against them, but these were dropped rather than reveal tapes of conversations which had been overheard on warrantless wiretaps.

(4) It is clear that IPS fellows have had their conversations intercepted by many warrantless wiretaps, although it is not yet known on whom the taps were placed. It is clear that the IPS files were created by each of the Federal agencies: the CIA, the FBI, the Office of Naval Intelligence, military intelligence agencies in general. It is not known if IPS or its fellows were targets of the

special "watch lists" which were distributed to various intelligence agencies, including NSA, the FBI, CIA, IRS, and military intelligence, but it would be surprising if it were not. The institute, Richard Barnet, and I were on President Nixon's enemies list. And various IPS trustees were given special auditing treatment.

(5) As if Federal attention were not sufficient, IPS came to the attention of the District of Columbia police and their political intelligence unit. The District of Columbia police employed the same informer used by the FBI against IPS, and perhaps several others. Several mysterious break-ins took place at IPS over a course of 2 years.

The powerful and the state are never very comfortable with open scholarship and with the willingness to pursue questions whose answers may not serve the status quo. This problem is one which goes with the territory for the public scholar, the scholar for the people. Ideas are indeed frightening things. They cannot be seen, but they can be felt, they represent the accumulated wisdom of people, and yet they seem ivory towered and remote; they challenge the status quo and undermine the powerful, but they can be tested and evaluated publicly and honestly. This can be done through debate, not through wiretapping or burglary. It can be done not through imprisonment, indictment, impugning the patriotism or honesty of another person, but by stating directly one's interests, arguments and purposes. The value of this hearing is that it will encourage the police agencies to think again about who they are and what they serve. It might even encourage them to come to discussions of the institute not as spies, sneaks, and informers, but as participants who are open to having their dearest assumptions challenged.

[The FBI's response to the allegations made by Mr. Raskin during this hearing is printed on pages 1149–1150 of the appendixes.]

Mr. STANTON. Thank you, Mr. Raskin. I am delighted to have your testimony, and my colleague, Congressman Dellums, is delighted to welcome you as a comember of President Nixon's enemy list, on which he is happy to join you. We would like at this time for Mr. Murtagh and Mr. Hardy to pull chairs up to the table.

We will begin the questioning of members of the panel. Any member who wants to question any particular person who has testified can do it now.

Mr. MCCLORY. I don't want to get the answer right now, but the last witness, Mr. Raskin, mentioned wiretaps and unlawful acts and so forth in a very general way.

We are investigating the FBI today, and, at an appropriate time, I would like you to delineate the precise time and place that unlawful wiretaps were placed on you and any members of your organization, or any other illegal acts which they engaged in which we could investigate.

Mr. STANTON. Fine; Mr. Raskin, do you want to respond?

Mr. RASKIN. Mr. Congressman, may I submit the file to you?

Mr. MCCLORY. Yes; that is what I want you to do.

Mr. RASKIN. I don't have it with me, but I will submit it.

[Mr. Raskin subsequently advised the committee that the requested information is under protective order.]

Mr. McCLORY. I want to ask Mr. Murtagh: You mentioned unlawful wiretaps, especially a wiretap on Martin Luther King. As a matter of fact, that was a wiretap which was placed on Martin Luther King by direct authority of Attorney General Robert Kennedy, was it not?

Mr. MURTAGH. As I understand it—I guess you have been through this before—I said, "of questionable legality," and I am not concerned——

Mr. McCLORY. Just answer the question.

Mr. STANTON. Do you know who placed the wiretap or authorized it?

Mr. MURTAGH. No; I don't know who authorized it.

Mr. STANTON. That answers the question.

Mr. MURTAGH. May I make a correction in my original statement, Mr. Chairman?

Mr. STANTON. We would be happy to have any corrections.

Mr. MURTAGH. This is just a short correction and will only take a minute. I said that I had known thousands of agents who had resigned in disgust, and I guess that would be incorrect; I probably have known hundreds who did.

Mr. McCLORY. Would you give us the names of 5 or 10 you can think of?

Mr. MURTAGH. No, sir; I couldn't give you the names of 5 or 10 agents. I don't recall names that rapidly. I think I could——

Mr. McCLORY. Do you know the names of 10?

Mr. MURTAGH. Yes; I could go back and review them. If the Bureau would want to give me a list of the agents that went through the offices I was in, I could pick out many.

Mr. McCLORY. If you will get 10 for me, I would like to have the names.

[By letter of November 21, 1975, Mr. Murtagh provided the information requested by Mr. McClory. It is in the committee files.]

Mr. McCLORY. Every former FBI agent I have met until you came along was very proud of his service in the FBI; felt a sense of loyalty, and didn't feel any need to breach such loyalty as you have today.

Mr. MURTAGH. You and I are talking to different agents.

Mr. STANTON. Mr. McClory, I don't think you ought to characterize the witness' testimony.

Please continue.

Mr. McCLORY. I want to ask Mr. Camejo: From 1938, I think it was, until 1940, the Socialist Workers Party did—originally did—advocate the overthrow of the Government by force of violence; did it not?

Mr. CAMEJO. No; it did not.

Mr. McCLORY. It never did?

Mr. CAMEJO. Never did.

Mr. McCLORY. Are you talking about "never" since you became affiliated with it or "never" in its history?

Mr. CAMEJO. Never in its history.

Mr. McCLORY. Now, when you talk about that, you want to assert rights such as those that were exercised in 1776 and 1861. Those were violent revolutions, were they not?

Mr. CAMEJO. In 1776 the American people chose to have no taxation without representation; they wanted a republic; they wanted a democracy: and there was a tyranny that would not allow them to have that.

I don't know if you are acquainted with this type of history, but

there was a revolution at that time which most Americans supported. The entire Nation is celebrating it next year. You might have heard of that.

Mr. McCLORY. Was it a violent revolution?

Mr. CAMEJO. Yes, it was quite violent.

Mr. McCLORY. Is that the kind you advocate now?

Mr. CAMEJO. I support the revolution of 1776.

Mr. McCLORY. Is that the kind you advocate now?

Mr. CAMEJO. No; I don't think we need to repeat that revolution. We are independent from England now, so it is unnecessary to try that one again. It would be rather foolish.

Mr. McCLORY. Mr. Murtagh, in addition to the wiretap that you say was illegal, will you give me the——

Mr. MURTAGH. Congressman, I did not say the wiretap was illegal.

Mr. McCLORY. You used the expression "illegal activity" throughout your testimony. I want to know what it was.

Mr. MURTAGH. The illegal activity consisted of a series of things——

Mr. McCLORY. I want you to delineate them.

Mr. MURTAGH. If you will give me an opportunity, I will answer them.

Mr. McCLORY. We won't have time today, because I am sure there are too many you will want to delineate. I want you to furnish the committee with a complete list of all the illegal activities you were called on to perform when you were in the FBI.

My time is up. That is why I am asking you to submit it. So if you will do that, I would appreciate it.

Mr. MURTAGH. All right, Mr. McClory, let me tell you this. I will not bother to submit it for this reason: I have been through this thing. My wife has been suffering——

Mr. McCLORY. I just want——

Mr. MURTAGH. Can I make my statement or not?

Mr. McCLORY. You are not responding to my question any more than Mr. Camejo responded. I want answers to questions. I don't want speeches and performances here. This isn't a spectacle. It is an investigation, and you are refusing to respond to my question when you refuse to turn over in delineated form the illegal activities which you referred to in a general way in your statement.

Mr. STANTON. I think we will give you one moment to explain, Mr. Murtagh, if you would like to explain, why you are not going to submit the testimony.

Mr. MURTAGH. I am not going to continue any longer in this business. If the committee hasn't by this time collected enough information to see the need for reform of the FBI—if it can't recommend reform with the information it has now—then I think that the cause is lost and the country is lost.

Mr. STANTON. Thank you. The Chair would like to ask Mr. Raskin if there has ever been a time when the Institute for Policy Studies advocated change by violent means.

Mr. RASKIN. No, sir.

Mr. STANTON. Has the IPS ever engaged in training sessions or strategy sessions for individuals who advocated violence to achieve their goal?

Mr. RASKIN. No, sir.

Mr. STANTON. Has it ever provided refuge for fugitives from justice?

Mr. RASKIN. No, sir.

Mr. STANTON. Thank you.

The Chair will yield to Mr. Dellums.

Mr. DELLUMS. Thank you, Mr. Chairman.

Mr. Murtagh, unfortunately I was not able to be here this morning, and I would like to take the opportunity to ask you a few questions, perhaps in a different tone and certainly of a different nature than those of the distinguished ranking minority member.

Has the FBI tended to screen out certain racial groups and religious groups?

Mr. MURTAGH. I am sorry, I didn't hear the question.

Mr. DELLUMS. Has the FBI tended, over the years, to screen out certain racial and religious groups?

Mr. MURTAGH. Racial and religious groups. I don't understand what you mean by "screen out." In hiring?

Mr. DELLUMS. Yes.

Mr. MURTAGH. There is no question about it. The selection process has been designed in such a way that a person could not be hired as an agent unless he could get by an interview with a person who was already in the position of, say, an SAC and the screening was done along the lines of "if you look the part, if you are the type of person that I am, then we will take you; and if you are not, we won't."

I have had personal experience in a situation where an Air Force captain came into the Bureau—I mean was asking for employment—and the assistant in charge in Atlanta called me in. I had been assisting in screening some of these people. He asked me to go out and take a look at this fellow, and I went out and looked at him, and I went back in and he said, "Do you see anything wrong with him?" I said, "No, I can't see anything wrong."

He said, "Didn't you notice that he has eyes like Robert Mitchum? His eyelids fall down over his eyes." I said, "Yes, I noticed that." He said, "Well, I would be afraid to recommend him." He said, "I got transferred one time for recommending somebody that had acne on their face."

I give that as an illustration of the sort of qualifications that they looked into.

Mr. DELLUMS. Thank you, Mr. Murtagh.

My next questions is: Has this policy of exclusion had consequences or affected the results or policies of the FBI?

Mr. MURTAGH. I think it is the whole problem because the direction and the attitudes that control the thinking in the FBI are the attitudes of those that are hired.

Now, Mr. Adams here this morning was mentioning that they were having trouble recruiting minority agents. I happened to know of a situation where I recruited minority people in Atlanta for clerical positions at the request of the SAC—several hundred of them over a period of 4 years—and I recruited them very vigorously.

My job was merely to get them, approve them for investigation, and then other agents conducted the investigations. We got to the point where we had a hundred or more finished investigations at the Bureau.

The boss at that time was Joe Ponder, the boss in Atlanta. He came

to the Bureau for his yearly conference and came back to me, came up to my desk, sat down and said, "Art, I was at the Bureau last week, and I went around the horn and talked to all the supervisors until I got to Adams, and Adams spoke to me and said, "One way or another, you have got to stop Murtagh's movement"—meaning Murtagh's blacks—"coming up to the Bureau to work." And he says, "If you don't stop it, you are going to get those niggers back down South to work in your office."

Mr. DELLUMS. Thank you, Mr. Murtagh. My next question is: Does the FBI have a political philosophy, and, if so, do the agency's political views affect its investigation of blacks, browns, reds, yellows, the Socialist Workers Party, and antiwar movement, and other so-called dissident groups?

Mr. MURTAGH. The emphasis on all the intelligence investigations is to hit the left hard and to ignore the right until they do enough damage, as they did in the sixties in the Klan situation, so that the Bureau is forced into investigating by the press.

I went into Birmingham in the Birmingham bombing situation and the trouble in Birmingham with a group of agents in the early sixties and the Bureau at that time—the *Brown* decision came down in 1954 and by 1962 they had nothing on the Klan in Alabama other than a list of first names and that sort of thing. They had no penetration whatsoever. And if you contrast that with the intensive investigations that they made of the black units—and I did them myself, so I know what I am talking about—the black units in the Atlanta area during the sixties when certain blacks became militant, there is no comparison whatsoever of the effort put in, the agents' time, the amount of agents assigned to the job, the thoroughness with which the investigations were worked in connection with black militants as opposed to the Ku Klux Klan.

The only time they investigated the Klan was when there was actual murder and the press forced them into it.

Mr. DELLUMS. Thank you very much for that illuminating testimony, Mr. Murtagh.

Mr. STANTON. The Chair recognizes the gentleman from Colorado.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. Murtagh, this morning you said, with respect to the call you had from a "Colonel Klink" about the Andrew Young election, that you thought that the information—his handwriting sample, I believe it was—was going to be used in an unrecorded counterintelligence operation to destroy Mr. Young's chances of being elected.

Was that anything that you knew about personally, or is that a speculation on your part? Do you know of any kind of counterintelligence operation against Mr. Young or any other candidate for Congress?

Mr. MURTAGH. That I know of personally, myself?

Mr. JOHNSON. Yes, sir; that you know of.

Mr. MURTAGH. No; I know of another situation involving information that was used in that manner, or at least Arthur DeLoach told us it was, in which they picked up some information on a midwestern—I wouldn't mention his name, but a midwestern Senator who was in a hit-and-run accident situation.

He told us this in a class with 50 agents present here in Washington the week that Kennedy was killed.

Mr. JOHNSON. Was that used by the FBI against somebody's election?

Mr. MURTAGH. Here is what DeLoach said. Somebody asked him, "What do we use all this memorandum stuff we put in about things we see—what do you do with it?" DeLoach said, "You fellows have been in the Bureau for more than 10 years, so I guess I can talk to you off the record." He said, "The other night we picked up a situation where this Senator was seen drunk, in a hit-and-run accident, and some good-looking broad was with him." He said, "We got the information, reported it in memorandum," and DeLoach—and this is an exact quote—he said, "By noon the next day the good Senator was aware that we had the information and we never had any trouble with him on appropriations since."

Mr. JOHNSON. Anything else—any other operations that you might know about?

Mr. MURTAGH. I am only one agent.

Mr. JOHNSON. I understand that. I am just asking. If we are going to find out about this, we have to know that what our witnesses tell us is accurate. I would like to know what you thought might be the kind of counterintelligence operation that could be used to destroy Mr. Young's chances of election by getting a handwriting sample?

Mr. MURTAGH. Well, I didn't put it all in the statement. The supervisor in that case said something to the effect that they wanted it to disrupt the relationship between Andrew Young and his coworkers in the SCLC unit by a counterintelligence operation—which I know to mean writing letters and seeing that they got into SCLC indicating that Hosea Williams was saying something about Young or something of that nature and having them surreptitiously delivered to the individuals causing internal difficulty.

Mr. JOHNSON. Does the committee know who "Colonel Klink" is, who called him with this idea and on whose orders that was initiated?

Mr. MURTAGH. His name is Charles Harding. He is retired from the Bureau now.

Mr. JOHNSON. He is the one you identified as "Colonel Klink"?

Mr. MURTAGH. The last I heard, he was working as a fund-raiser for SCLC.

Mr. JOHNSON. Do we know who initiated that contact with "Colonel Klink"?

Mr. MURTAGH. Who initiated it?

Mr. JOHNSON. Yes; you said he received a call. You don't know whose orders this allegedly originated with, is that correct?

Mr. MURTAGH. All I know is "Klink" called me in after hours, and he said, "Art, the Bureau called. Can your boy get"—apologies for the reference to boy, but—"can your boy"—meaning my Negro informant—"can your boy get handwriting samples and letterhead material and envelopes from SCLC?"

I responded, "Yes, he can, but he won't, and I know what you want them for." I said, "You and your crowd are going to run a counterintelligence operation and you can tell that guy at the Bureau I won't do it."

Mr. JOHNSON. Did "Colonel Klink" confirm what——

Mr. STANTON. Your time is up.

Mr. JOHNSON. I am sorry.

Mr. STANTON. Thank you.

The Chair recognizes the gentleman from Florida, Mr. Lehman.

Mr. LEHMAN. Just a couple of brief questions on provocateurs. The information I just received was that no provocateurs have ever been used.

This is contradictory to some information that I had previously received. I have no quarrel with the use of informers, but how do you keep informers from becoming provocateurs, and did you have knowledge of any provocateurs when you were in the FBI?

Mr. MURTAGH. I spoke to Mr. Hardy this morning when the question of provocateurs came up and said it is my judgement that the situation that he told you about is probably a rarity in the Bureau. I think that it was probably the actions of an individual agent.

The Bureau, to my knowledge, never indicated they wanted you to develop a provocateur; but, of course, it is also my feeling that this unbalanced political membership of agents—that is, the fact that they are all rightwingers rather than having a liberal here and there—creates an atmosphere in which provocateurs develop.

If you were in the Bureau and you were a racist, you were a strong supporter of the Vietnam war; you hated all the minority groups; you could be very popular, because most of the agents felt that way.

Mr. LEHMAN. That is a little different—I was trying to find out if you had any information as to——

Mr. MURTAGH. No, frankly, I think the Bureau did not want the agents to develop provocateurs.

Mr. LEHMAN. I am just trying to get the facts; that is all. Thank you.

Mr. STANTON. I would like to thank the witnesses for coming. We are going to recess the select committee until 3:40, at which time we will have questions for the early morning witnesses from the FBI.

Thank you very much for coming. We appreciate it.

The committee stands recessed until 3:40 p.m.

[Whereupon, the committee recessed to reconvene at 3:40 p.m.]

Mr. DELLUMS [presiding]. The committee will come to order. May we have the FBI witnesses return to the table, please?

May I ask the gentlemen who are witnesses if you have opening statements? If you don't, we will proceed to the questioning.

Mr. WANNALL. Mr. Chairman, we appeared earlier today and there was an opening statement. I would appreciate just a couple of minutes to make a few remarks, if I may.

Mr. DELLUMS. You may proceed.

FURTHER TESTIMONY OF W. RAYMOND WANNALL, ASSISTANT DIRECTOR, FBI INTELLIGENCE DIVISION

Mr. WANNALL. Chairman Pike asked that I remain this afternoon and listen to the testimony which has been given by the witnesses who appeared.

Prior to our arrival here this morning, we had not received the statements which were utilized by those witnesses in making their presentations. We are not in a position to discuss in detail the various allegations which have been made. We certainly are in a position to talk about our policies and procedures, and from the allegations, which I have heard today, I can assure you that they do not represent the

policy of the FBI at this time, and, to my knowledge, not at any time in the past.

There were some questions which Congressman Dellums posed regarding our policy with respect to employment of minority groups. I had the opportunity during the recess, from which we have just returned, to have a call placed to our office, and I do have figures with respect to employment of minorities as of October 31, 1975.

May I say before I put these figures on the record, Mr. Adams addressed himself this morning to the efforts which are being made to build up our complement among the minority groups.

As of October 31, we had among our special agent complement 103 agents who are blacks, 113 with Spanish-American surnames, 14 of American Indian background, 21 of oriental background.

We do have on our rolls to date 37 female agents, and a very great need for additional ones among the female agents and among the others which I have delineated.

Chairman PIKE. To put those figures in perspective, can you tell us how many minorities out of how many agents?

Mr. WANNALL. Our total agent complement is in the neighborhood of 8,300 to 8,400.

Among our clerical complement we have 1,863 blacks, 263 with Spanish-American surnames, 13 American Indians, and 96 orientals. Very many of these are females. I have not tried to delineate between the males and females of our clerical complement.

It is the charter of this committee to check into our operations, and I hope that that also, Chairman Pike, will be put into perspective. We have been discussing only the domestic intelligence of the FBI. May I give you an idea of what percentage of our overall operations that represents?

The FBI does have investigative responsibility under some 135 statutes. In the agent complement of the 8,300 to 8,400 agents we have, there are less than 10 percent who are engaged in our domestic intelligence operations. The most up-to-date figure I have at my fingertips was as the result of a survey made in April last year, and the precise number was 788, and that number has been reduced since that time.

Some 3 years ago, that number was over 1,200. The trend has been downward, as a result of our requirements to place on higher priority work additional manpower.

There have been statements made—or questions asked, perhaps I should say—with regard to the FBI utilization of agent povocateurs. When we speak of agent provocateurs, I am sure we are speaking about activities which would amount to entrapment.

Ever since I have been in the FBI, and that has been about a third of a century, there has been in our manual a very specific prohibition against any agent engaging in entrapment. Any agent who was found to have engaged in that would be subject to severe disciplinary action.

With regard to the utilization of informants: At the present time in our domestic intelligence area, we are investigating a certain number of organizations, each of which has numerous chapters, districts, clubs. If you put all of those together, including the segments of the organizations as well as the principal organizations, we would come up with a figure of over 1,100 organizations or subdivisions of organizations that to some extent would receive investigative attention.

Our total number of informants in our domestic intelligence area is less than that number, less than 1,100. The extent of our use of informants might be best represented—and I might explain here that I am talking about informants not only in our domestic intelligence area; I am talking about those we use in our foreign counterintelligence operations. I am also talking about those individuals whom we have under inquiry for the purpose of determining whether or not they may be utilized as informants.

The total amount of money paid for all of these things in 1974 was one-half of 1 percent of the FBI's budget. In no year in the last 20 has it exceeded 1.2 percent of the budget. And that figure was attained at a time when our activities were particularly concentrated in our foreign counterintelligence areas.

The witnesses who have appeared this afternoon are connected with organizations—not all of them, the majority—organizations which are currently involved in litigation involving the FBI as well as other agencies and officials of our Government. The Socialist Workers Party presently has a suit pending for some $27 million against numerous officials and agencies of the Government.

I offer to you, Mr. Chairman, that in connection with that suit, we have, of course, been required to file pleadings papers indicating the basis for investigation, and if the committee would be interested in having a copy of that particular paper, we would be very happy to submit it for the committee records.

Chairman PIKE. I don't have any idea how voluminous these documents are, but without objection, they will be made part of the committee records.

Mr. WANNALL. I spoke particularly of the documents showing the basis for our investigation, Mr. Chairman.

Chairman PIKE. Can you tell me roughly the size of that document?

Mr. WANNALL. I am told it is about 5 pages.

Chairman PIKE. That is fine. Without objection, it will be made part of the record.

[The memorandum subsequently supplied by the FBI—"Basis for Investigation of the Socialist Workers Party and the Young Socialist Alliance"—and materials relating to this case supplied by the SWP are printed on pp. 1151–1155 and 1156–1169, respectively.]

Mr. WANNALL. There was one statement made by Miss Lori Paton this afternoon that I would like to comment upon. There is litigation involving Miss Paton at the present time, also, so I do not want to go extensively into it; but she did make a statement that when she wrote to the Director of the FBI to inquire as to whether there was an FBI investigation of her, she received a reply in the negative, and I am sure that is the case.

She has explained there were three contacts which were made, and I think this morning it was pointed out that it took us 6 months really to get around to doing this; but three contacts were made and established that she was a high school student and in connection with a civics class, I think it was, had prepared and sent a letter.

When that information was developed, it was considered by our field office as completely insignificant, not of sufficient significance to send to headquarters; so when Miss Paton wrote to headquarters and made this inquiry, we had absolutely no record in the files of our

headquarters division with respect to Miss Paton, and that was the basis for her having received the reply which she did.

Thank you, Mr. Chairman. I did want to make these few remarks, and if I am able to reply to matters of a policy or procedure nature, I would certainly be most happy to attempt to.

Chairman PIKE. I am interested in your last comment—that there was no record at headquarters involving the *Paton* case. Are you saying there was no record at all at headquarters involving this case?

Mr. WANNALL. At our headquarters here in Washington.

Chairman PIKE. Are you saying that this mail cover surveillance under which Miss Paton's name got picked up was not operated out of Washington but on a regional basis?

Mr. WANNALL. No, sir.

Chairman PIKE. How did the regional office get Miss Paton's name?

Mr. WANNALL. Through the mail cover concerning——

Chairman PIKE. So there was some record in Washington of Miss Paton's investigation—at least that her name had been sent from Washington to the regional office; is that not correct?

Mr. WANNALL. No, sir. The mail cover in order to be established—and I think it ran for a period of some 120 days—had to be approved at headquarters. It could not have been put on without headquarters approval. In fact, it could not have been put on without the approval of the chief postal inspector of the Post Office Department.

The mail cover then was operated in a regional office covering the Socialist Workers Party.

Chairman PIKE. Do you mean that once the headquarters says go ahead and run a mail cover, they no longer get any records as to the result of that mail cover?

Mr. WANNALL. We get complete records of significant information.

Chairman PIKE. Well, here is a situation in which a kid in a high school class wrote to a political party and, as a result, got investigated by the FBI. That is really what it boils down to. Then when she found she was being investigated by the FBI, she wrote to the FBI and asked them whether she was being investigated by the FBI and they said no.

I don't really think that you can avoid responsibility for this sort of misinformation by the bland statement that "We didn't have any records about her in Washington." Do you mean that whenever anybody asks the FBI whether they are being investigated, the Bureau doesn't bother to check in the region?

Mr. WANNALL. No, sir. What I am trying to convey to you is that our manual, which provides the guidelines for investigation in this area, a copy of which has been sent to you——

Chairman PIKE. Well, the letter which was sent to Mr. Frank Askin on July 6, 1973, was from the Newark, N.J., office. It was signed by J. Wallace LaPrade, special agent in charge, who flatly denied that there was any investigation by the Bureau. That didn't come from Washington; it came from the regional office and from the man who purported or alleged that he was in charge of the investigation.

Mr. WANNALL. I am not familiar with the letter, but I was basing my remarks on Miss Paton's statement that the Director of the FBI had lied to her.

I assumed from that she had written to headquarters.

Chairman PIKE. I don't know whether she said the Director had lied to her. She said the FBI had lied to her.

Mr. WANNALL. Then I took my notes down incorrectly, Mr. Chairman.

Chairman PIKE. It is possible that you are right. But the man in charge, J. Wallace LaPrade, is a real name; he was one in charge of this investigation, and here is the language of the letter:

> After carefully reviewing the facts in this matter, I have concluded there was no impropriety on the part of investigative personnel of this Bureau and that the FBI has no knowledge of any letter Ms. Paton may have sent to the Socialist Labor Party. You may be assured that Ms. Paton is not the subject of an investigation by this Bureau and that the FBI does not maintain a general policy of surveillance of correspondence of political groups such as the Socialist Labor Party.

We are now talking about the Socialist Workers Party as opposed to the Socialist Labor Party. But other than that, it seems to me a rather straightforward misassertion of the facts as they actually were.

Mr. WANNALL. Mr. Chairman, I will be very happy to pursue this, get the facts and submit them to you. I was endeavoring to address myself to the policies and procedures that we have.

[The Bureau's response is printed on pp. 1134–1136 of the appendixes.]

Chairman PIKE. Mr. McClory.

Mr. MCCLORY. Thank you, Mr. Chairman.

With respect to the employment of FBI agents, Mr. Murtagh stated that there were thousands who have been forced to leave the FBI service in utter disgust. Now you state that you have from 8,300 to 8,400 agents. How many were asked to resign last year or how many resigned voluntarily last year?

Mr. STANTON. Would the gentleman yield for a second? He amended his statement.

Mr. MCCLORY. I know, but I am just asking how many. I am not asking whether he made a direct statement or not.

Mr. STANTON. You would not want to misrepresent what he said.

Mr. MCCLORY. That is his written statement. All I want to know is how many wanted to resign or how many requested to resign. Would you furnish us with that information for the last 2 or 3 years so we will know how many are resigning in disgust or what?

Mr. WANNALL. Mr. McClory, the best way I can answer that is to tell you that the turnover rate among agents, if you exclude those who retire, is less than 3 percent.

Mr. MCCLORY. With respect to informants, that is a legitimate and very vital way of securing information and intelligence; isn't it?

Mr. WANNALL. Yes, sir.

Mr. MCCLORY. You are not going to discontinue that because we have some intelligence excesses or failures or abuses, I hope.

Now also, Mr. Murtagh, of course, came to work for you in 1951. That was before the Civil Rights Act of 1964 and before the Voting Rights Act of 1965.

We have had a change, have we not, during these later years with respect to rights of minorities—especially the rights of blacks to vote and employment and things like that—and they have been reflected in the FBI as well as in all segments of our society, I trust. Is that right?

Mr. WANNALL. I think that is a correct statement, sir.

Mr. MCCLORY. Mr. Murtagh also testified about the wiretap on Martin Luther King, Jr., but he didn't seem to know whether it was authorized or unauthorized.

Actually, that was authorized by a former Attorney General Robert Kennedy; was it not?

Mr. WANNALL. It was authorized; yes, sir.

Mr. MCCLORY. Now, with respect to State wiretaps, you don't have anything to do with whether they are authorized or unauthorized; do you?

Mr. WANNALL. No.

Mr. MCCLORY. Have you had any kind of wiretaps on the Institute for Policy Studies?

Mr. WANNALL. Mr. McClory, that case is in litigation and we would be very glad to answer that in executive session.

Mr. MCCLORY. With respect to the Socialist Workers Party, did they at one time, according to your information, advocate the overthrow of the Government by force and violence?

Mr. WANNALL. Yes, sir.

Mr. MCCLORY. When was that?

Mr. WANNALL. It is my recollection that Leon Trotsky established the Fourth International in 1938 and the party here in the United States was established at the same time.

Mr. MCCLORY. Do you regard them now as a revolutionary party that is advocating overthrow of the U.S. Government by force and violence?

Mr. WANNALL. I would have to say I regard them as a party that follows the doctrine of Marxism-Leninism as interpreted by Leon Trotsky.

Mr. MCCLORY. How about the Institute for Policy Studies—do they advocate violent overthrow of the Government?

Mr. WANNALL. I have no knowledge to that effect.

Mr. MCCLORY. We have quite a large file here. This is the FBI file on the IPS. Why do you keep such a large file?

Mr. WANNALL. As was pointed out this morning, we had an investigation, I think it was for about 5½ years.

Mr. MCCLORY. Do they pose some threat to the U.S. Government?

Mr. WANNALL. I think our investigation principally was based on the individuals who were involved in the organization as opposed to the organization itself.

Mr. MCCLORY. Do the individuals who belong to the organization belong to some other organizations that advocate the overthrow of the Government by force and violence?

Mr. WANNALL. I think the principal basis for our opening active investigation was the association or connections, at least, with an organization which was known as the Students for a Democratic Society which ultimately evolved into two or three organizations, one of which is the Weatherman underground today.

Mr. MCCLORY. My time is up.

Chairman PIKE. It is my understanding, Mr. Hayes, that because of the bells, you got counted out of your questioning period. The gentleman is recognized.

Mr. HAYES. The feeling I get is that somehow I am plunged back into a very murky ideological swampland. I didn't really realize that anybody was still tramping around discussing at the kind of level that has been discussed today—and in the testimony particularly—the ideological posturings of groups in America. I think it is really quite strange and to me quite disturbing. I want to simply comment on some views that were placed in the record by Mr. McClory, particularly—some views I think probably ought to be taken into account considering the testimony we have had here this morning and considering some of the explanations that you have given.

The question of how long we should stay with an investigation of someone is answered, I think, basically by the FBI and the other witnesses representing the FBI as being interminably—until such a time as they might renounce the use of force or the use of terrorism or any device in carrying out what their end result might be, what they desire. That might be a change in the economic or political structure of this country. But as I understand it, this particular group here today is just simply saying that there is going to be a revolution, economic or political, and there is nothing they can do to either start it or stop it, and not much we can do to start it or stop it—it is simply something that is going to happen.

The renunciation of something really is not in our laws. I do not know of anyplace we have a requirement—in the Smith Act, which has been cited ad infinitum today, or any other act. So we do not require the renunciation of any course of action. If somebody is silent, they stay silent. If you pursue these people because of their regard for Trotsky—have you heard of Max Eastman, because if you haven't heard of him, he was a renowned editor of the Reader's Digest. But he did happen to be Trotsky's secretary at one time. I think it is an expensive chore that you are getting the Government into if you are suggesting to policymakers that we pursue these investigations to this degree.

This is where I think Mr. McClory is mistaken when he lauds loyalty and this fastening down and makes all kinds of inquiries about what you found out about what somebody believes. You said you do not investigate organizations, but rather individuals in organizations. That is rather a sophistical way of looking at it. I don't believe it washes out and I don't know of any legislative charge that would allow you to do that. I think, quite properly, we should not be heaping too much blame on the FBI because the responsibility does rest with the Attorneys General and ultimately with the Presidents and with the Congress to a great degree.

We have allowed monuments to be built to the FBI in the form of the office building you are now working at, and we even allow some kind of admiration to grow up by saying we know most of the agents are really loyal to the organization. I don't hear of anybody talking about loyalty to the Fairfax County Police Department. It seems to me this is an instance where our ministerial officers, whether they are police officers or whatever, really have one job to do—and that is to carry out with reasonableness the laws of this country.

Mr. McClory is also interested in the use of informants and how swell they are, and I think they probably are—in the case of solving the enormous amount of Dyer Act cases in the United States. But I

think most of us who have hung around in the court system for any amount of time know what type of informants we are talking about. We are talking about the people you ask, "Did you see a yellow Plymouth convertible in your neighborhood?" If they did, you have to pick it up. That is how we use informants. You are not cracking any big cases using them. So I think it is important that we begin in some manner or other to qualify the kind of testimony that we have here from Mr. Adams at page 11, which I covered this morning—about how or where we ought to be and that there are those who have as an ultimate goal the overthrow of this country. That is a broad misstatement and a misunderstanding of the ideological philosophy of those groups; and a particular misunderstanding of your roles as intelligence officers of this country.

Chairman PIKE. The gentleman's time has expired. If you would like to comment at all, Mr. Wannall, you are welcome to.

Mr. WANNALL. I would only say that we do, of course, provide all our material to the Department for review. I think you are aware that the Attorney General is addressing himself to the matters Congressman Hayes brought up in the preparation of a series of guidelines at the present time.

Chairman PIKE. Mr. Stanton.

Mr. STANTON. Mr. Wannall, you have had an opportunity, in your position with the FBI, to examine in 1974 and 1975 what I would call the Socialist Workers Party modern structure.

Do you consider any part of the modern structure of the Socialist Workers Party a threat to this country?

Mr. WANNALL. Congressman, I think we are trying to resolve, in this forum, a matter which is before the courts at the present time.

I would be reluctant to try to give you a reply to that. I think the courts themselves are going to make the decision in connection with the current litigation.

Mr. STANTON. You rely, apparently, upon your investigation of the Socialist Workers Party for the predication that Mr. Trotsky was the founder of this organization. You stated, or inferred, that Mr. Trotsky advocated the overthrow of the Government of the United States. Do you believe that statement?

Mr. WANNALL. I don't know that I inferred that he specifically advocated the overthrow of the Government of the United States. To my knowledge he was never here. But I have offered, and certainly will follow through on the offer, to provide to the committee a five-page document which shows the basis for the investigation.

Mr. STANTON. A five-page document? I will be happy to look at that.

[The material is printed on pp. 1151–1155 of the appendixes.]

Can you justify now, after the fact, in your own mind, illegal entries by the FBI as a practice, historically? Do you think it is justified for the Government to ever authorize—whether it is illegal or not—an agency of the Government that has a police jurisdiction to be involved in violation of the law?

Mr. WANNALL. Congressman Stanton, that matter is under review by the Attorney General. I think the reason it is under review, I heard someone cite an example, if a law enforcement agency knew that a group had an atomic bomb in the basement of the building

and had an opportunity to prevent its going off, should the agency go in or not? There are ramifications to this.

Mr. STANTON. That would not be a violation of the law.

Mr. WANNALL. Well, take something, then, that is not fissionable material, which does not specifically rest in the Atomic Energy Act.

Mr. STANTON. If you are an FBI agent and you have knowledge of somebody who has nuclear material and you have knowledge that they might use that nuclear material in a way that might damage the rights of other people or damage them physically, then you have a duty. Would you?

Mr. WANNALL. I'm sure this is the rationalization which is being followed by the Department in connection with the consideration of the problem.

Mr. STANTON. There is a provision under the law which allows for search and seizure by governmental agencies. Warrant for search and seizure is authorized under the law. But I think as a matter of philosophy and policy that is important. You have a high position in the FBI. You have a high responsibility to insure that from this day forward there is not a violation of the law in terms of the conduct of the U.S. Government. I think it is important to get from you some idea as to whether you would condone in your own mind an illegal act such as must have been justified at some point in time by Mr. Hoover as head of the FBI. Can you see any chance that you would act at some point the way Mr. Hoover acted?

Mr. WANNALL. I cannot see any circumstances where I would either authorize or engage in an illegal act.

Mr. STANTON. I think that is important. You are going to affect the decisions of the Bureau and affect the careers of young men who will be coming in the Bureau in the future. I think your attitude as to how you thrust these questions in terms of the disciplines within the Bureau itself is important for the future of the Bureau. There are many of us here who abhor the fact that you get involved in what we consider frivolous or illegal investigations at times. We want to correct those abuses but at the same time we want a Bureau which represents the best part of the American people and the American public.

Mr. WANNALL. I am sure our Director does, too, and I can assure you I do, Mr. Stanton.

Chairman PIKE. Mr. Johnson.

Mr. JOHNSON. Mr. Wannall, did you have a chance to hear or see the testimony presented by Mr. Hardy with respect to the Camden operation?

Mr. WANNALL. I was not here during his testimony this morning.

Mr. JOHNSON. Have you seen it?

Mr. WANNALL. I glanced over it at lunch time.

Mr. JOHNSON. Is there anything you would care to say in reply to that?

Mr. WANNALL. No, sir.

I cannot comment on it. The case in fact was not even handled in the Division of which I am the Assistant Director. It was in another Division. I have no firsthand knowledge which would lend any information to the deliberations of this committee.

Mr. JOHNSON. Well, I think that in the event that anybody at the Bureau chooses to, the committee would be pleased to receive any

reply which you might care to offer. I would ask the chairman, without objection, that that opportunity may be made available.

Chairman PIKE. Certainly.

Mr. JOHNSON. If they choose to. At this point, the statement stands unrebutted. We are offering you this opportunity to reply.

Mr. WANNALL. I can certainly say what I read in that statement does not represent the policy at the FBI.

Mr. JOHNSON. I understand it is not the policy. It might be an aberration. That is what we are trying to find out. Aberrations can happen. We would like to have verification of your statement that it is or is not the truth, if you care to make it.

Chairman PIKE. If the gentleman will yield for just a moment, I would simply say that that request which you made with regard to Mr. Hardy's statement would hold true for any of the statements which you would like to comment on—any statement made during the course of the day.

Mr. WANNALL. Thank you.

[Reply memorandums concerning the testimony of non-Bureau witnesses were subsequently submitted by the FBI. The Bureau's 259-page report on statements made by Mr. Hardy could not be printed in the record. The memorandum accompanying it and the Bureau's other rebuttal memorandums are printed in the appendixes.]

Mr. JOHNSON. In the brief time I have remaining, I would like to pursue your response to Mr. McClory's question about whether or not the Socialist Workers Party poses a threat, through violence, to this country. Your answer was evasive. I understand you don't make policy, necessarily. But your answer was evasive—based on adherence to the Fourth International. However, in essence according to the testimony as I heard it—and as I say, I am an old district attorney and I am prosecution-minded—you have been surveilling people for 30 years on the basis that they might commit a crime sometime in the future. I would like to know at whose direction this process was started, how often it was reviewed, if it was reviewed? Is it something that just got started and goes on forever without anybody considering whether it should be stopped or whether it was reevaluated? We do not have any testimony justifying this kind of conduct.

You said that wasn't your policy, yet it has gone on.

Mr. WANNALL. I am not able to tell you who started it. It started before I did in the Bureau. But we do have the regular practice and procedure of sending our reports to a section at the Criminal Division of the Department of Justice with the understanding that if there is objection to our continuing with an investigation, it will be called to our attention.

Mr. JOHNSON. If anybody objects?

Mr. WANNALL. If a decision is made that we should discontinue, we would be notified—may I put it in that sense?

Mr. JOHNSON. And that would be made by the Department of Justice.

Mr. WANNALL. Yes, sir.

Mr. JOHNSON. By the Attorney General?

Mr. WANNALL. By a section in the Criminal Division which, of course, is under the Attorney General.

Mr. JOHNSON. I suppose there is an Assistant Attorney General involved?

Mr. WANNALL. There is an Assistant Attorney General in charge of the Criminal Division.

Mr. JOHNSON. Is that an appointed office? Is that one of those offices where people serve for a while and then they go out and another person is appointed and he goes out? It looks to me as though this is probably what happened—that they started the investigation 30 years ago and nobody ever challenged it or stopped it.

Mr. WANNALL. It is an appointed office, but I'm sure the reports are not personally reviewed by him. They are probably reviewed by someone under him, who would certainly have some degree of continuity in his position.

Mr. JOHNSON. What kind of oversight in the Congress do we have to check these things?

Mr. WANNALL. Oversight by Congress?

Mr. JOHNSON. Yes. Has anybody in the Congress ever said, "Why are you doing this and why have you continued for 30 years when you have not found there is any danger?"

Mr. WANNALL. I don't know whether it would be termed oversight as such, but I think during the entire period of time the Director of the FBI testified in connection with the appropriations of the FBI.

Mr. JOHNSON. We have had testimony about what that kind of testimony involved. If that is what it was, it is understandable how it went on so long.

Chairman PIKE. Mr. Dellums.

Mr. DELLUMS. Before getting into questions, I would like to say I appreciate your going into statistics with respect to minorities employed by the FBI. But in appropriate terms, your employment of blacks is 1.2 percent, and in a Nation where 51.2 percent of the population is women, you have 0.4 percent women agents.

Now, with respect to your statement about the Fourth International, as I understand it, the Socialist Workers Party was affiliated with the Fourth International back in the late 1930's. That was not illegal. As a result of the passage of the Voorhis Act, the Socialist Workers Party discontinued any affiliation from that day to the Fourth International which in my opinion flies in the face of your justification for 30 years of intimidation, burglarizing, warrantless wiretaps, and other programs you have used to justify under the absurd nomenclature of counterintelligence program. With respect to the Socialist Workers Party specifically, as I understand it this morning, you testified that the FBI has not engaged in surreptitious entry or burglary since 1965.

In the fall of 1971, the office of the Michigan Socialist Party was burglarized, and file materials were taken. In April 1973, the Civil Service Commission confronted a former SWP member with a copy of a letter of resignation from SWP. The letter had been in the burglarized file.

My questions are twofold. Has the FBI burglarized SWP offices in general, and specifically have you burglarized Michigan offices of the SWP?

[An affidavit signed by Norma Jean Lodico attesting to the burglary referred to by Mr. Dellums and to other matters is printed on pages 1195-1196 of the appendixes.]

Mr. WANNALL. Congressman Dellums, this morning the date I mentioned was 1968 as opposed to 1965. I have no knowledge that the FBI has burglarized the Socialist Workers Party in that or other instances you are talking about since then.

Mr. DELLUMS. You say you have no knowledge. Let me put it this way: I would like to suggest that you check the files, and if there is any material leading to any facts that you burglarized the SWP or its Michigan office, would you supply that in writing to this committee?

Mr. WANNALL. The files have been checked, and I assure you there is nothing in the files to indicate that in 1971 the Michigan office was burglarized.

Mr. DELLUMS. Thank you.

FBI manual section 122, entitled "Extremist Matters and Civil Unrest," says in part:

> In addition to the three principal statutes outlined above, the following statute would pertain to investigations of Klan and other white hate groups.
>
> (4) Civil Rights Act of 1968 (T18, USC, Sec. 241)
>
> In summary, this statute makes it unlawful for two or more persons to conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States. Additionally, it prohibits two or more persons going in disguise on the highway or on the premises of another with intent to prevent or hinder his free exercise or enjoyment of any rights secured by the Constitution or the laws of the United States.

Doesn't this in fact describe the major part of the FBI's intelligence activities against so-called dissent groups in this country?

Mr. WANNALL. The entire matter relating to the so-called Cointelpro has been reviewed and is under consideration in the Civil Rights Division of the Department of Justice. We took our entire file on the Cointelpro and made it available to the Assistant Attorney General and two of his deputies to review the matter. While it was not possible for him to look at every serial, he did look at most of the serials, and in fact Mr. Ryan, who is at the table with me, tried to direct his attention to specific items that might be troublesome.

Following the review, he said based on his review there was no indication of a violation of the statute. He did say that if any information is called to his attention in the future, he certainly would consider it.

Mr. DELLUMS. You indicated in testimony this morning that you no longer have a security index file. You have an ADEX file. Does the FBI still maintain at some location cards which have names of 13,000 persons who were on this security index?

My point is: You say you don't have it, but don't you in fact still have those names, and you can call them forward at any time?

Mr. WANNALL. We have cards on 13,000. I will accept that figure. I think it is probably in that neighborhood. When the security index was discontinued by legislation of this Congress in September of 1971, we had a program of regularly destroying cards. They were maintained for a certain period of time and then destroyed. However, Senator Mansfield issued instructions in January of this year that no records should be destroyed pending the outcome of the investigations by the Senate committee. We have made no destruction of any records since that time.

Chairman PIKE. The time of the gentleman has expired.

Mr. Milford.

Mr. MILFORD. Thank you, Mr. Chairman.

First, I would like to clear up for the record the colloquy you had with the chairman concerning this Lori Paton statement. According to her written statement the appropriate words were: "I was shocked when FBI Director LaPrade wrote back denying I had been the subject of an investigation." Now the record is clear on it.

Mr. WANNALL. Thank you. I picked up "FBI Director." I did not pick up "LaPrade." In that instance, I have read the letter signed by Mr. LaPrade. He was not the Director. He was special agent in charge of our Newark office.

Mr. MILFORD. Mr. Wannall, on the surface it would seem that several witnesses have appeared before this committee and have given some very disturbing testimony against the FBI. Some of these accusations and allegations are very serious.

Under our system of justice, whether in our courts or before our juries or even in congressional investigations, there exists the right of rebuttal by the accused or maligned. Without a doubt the FBI has been accused of some serious aberrations and violations of our laws. There are actually two hearings going on here today.

One is the official hearing being conducted by this committee on behalf of the House of Representatives. The other is a public hearing that in effect is a form of trial by television and notoriety by newspapers.

With little doubt tonight's television and tomorrow's newspapers will detail the sensational statements made by the witnesses that appeared before this committee today.

Unlike our legal system of justice, the press is not required to plod through painstaking investigations to assure that all legitimate facts are known and presented to the jury or to the public.

They are legally free to print or broadcast any item of information as long as someone will simply say it—particularly if it conveniently fits a 1-minute TV blurb or 300-word newspaper item, and particularly if the quotes are sensational, controversial or scandalous.

While the FBI is probably going to flunk out as a TV star in tonight's news or as a celebrity in tomorrow's newspaper, I think it is extremely important for this committee's record to have the complete and detailed information concerning the allegations and accusations that have been made by witnesses before us today.

You have rebutted portions of that testimony, Mr. Wannall. I realize that you may not be able to fully comment on each and every allegation that has been made today. The time remaining for this committee to finish its investigation will probably not allow us to call you or other FBI officials back before the committee in formal hearings.

Therefore, I will ask you, as an official of the FBI, to take the statements of each and every witness that have appeared here today in each case where the FBI has been charged with the commission of an illegal act or where allegations of improper actions have been made, and I would ask you to supply for the committee's record the following information:

(1) All evidentiary information contained in FBI files that will either substantiate or rebut each allegation.

(2) Written and sworn statements, if any, from other individuals who can give testimony to the fact that either rebut or substantiate each allegation that has been made by the above list of witnesses.

(3) Any other documents or evidence that will tend to rebut or substantiate each allegation that has been made by the above-listed witnesses.

Will you supply that information for the committee record, sir?

Mr. WANNALL. We will do our best to reply to your requests.

Mr. MILFORD. Mr. Chairman, I ask unanimous consent that Mr. Wannall's reply and all documentary inclusion attached to his reply be made part of the committee record when received.

Chairman PIKE. I frankly thought we had already covered that. Without objection it is so ordered.

[Space limitations precluded printing the FBI's 259-page reply to the allegations made by Mr. Hardy during this hearing. The Bureau's transmittal memorandum is printed on page 1133 of the appendixes.]

Mr. MILFORD. Thank you, sir. I yield back my time.

Mr. DELLUMS. Would the gentleman yield to me?

Mr. MILFORD. Yes.

Mr. DELLUMS. I would like to ask this question: From your records wasn't the real reason for the IPS investigation their relationship with Ramparts magazine and your perception of Ramparts magazine?

Mr. WANNALL. Of the IPS?

Mr. DELLUMS. Yes.

Mr. WANNALL. Not to my knowledge.

Mr. DELLUMS. What was the justification?

Mr. WANNALL. I think I previously stated that the active investigation, to the best of my recollection, was opened in 1968 based upon contacts with an organization which was then known as Students for a Democratic Society.

Mr. DELLUMS. Do you have documentation that indicates that your records will show that there were contacts with the Weathermen? You mentioned that very specifically.

Mr. WANNALL. We have information that there were, as I recall, contacts with at least two Weathermen; yes, sir.

Mr. DELLUMS. Would you supply that to this committee, please?

Mr. WANNALL. Yes, sir.

Mr. DELLUMS. Thank you

[The Bureau's replies are included in its November 28, 1975, memorandums which are printed on pages 1123–1127 of the appendixes of these hearings.]

Chairman PIKE. The time of the gentleman has expired.

Mr. Field?

Mr. FIELD. Mr. Wannall, do agents of the FBI rummage through people's trash in order to collect intelligence—do they use so-called trash covers?

Mr. WANNALL. I think there have been isolated incidents where that has been done. The policy of the FBI since the middle of 1966 has been not to conduct so-called trash covers.

Mr. FIELD. Since 1966 that has been their policy. Did you testify under oath before committee staff members that since then, to your knowledge, trash covers have not been used?

Mr. WANNALL. I did so testify. I have since learned of one occasion where trash which was discarded by an organization was in fact recovered by an agent. It was not done with prior knowledge of FBI headquarters.

Mr. FIELD. Mr. Wannall, is it a policy of the FBI to report on somebody's secret life if it has no relevance to the investigation?

Mr. WANNALL. No, sir.

Mr. FIELD. In other words, they would not report on it?

Mr. WANNALL. No, sir.

Mr. FIELD. Mr. Wannall, you are aware of the teletyped memo of August 29, 1972—and I will read from it since it is not classified—saying:

> On August 23d last, Special Agent Robert W. Feuer observed a private trash truck picking up trash from the Institute for Policy Studies. The truck proceeded to a burning dump, where the trash was abandoned. Special Agent Feuer obtained the IPS trash, and information obtained from this source is being signed symbol number WF 4868-S.

Is that the incident you are referring to?

Mr. WANNALL. That is the incident I am referring to concerning which I have become acquainted since my deposition on the 5th day of this month.

Chairman PIKE. Would the gentleman yield?

You did get some information about some trash recovered from the House Select Committee on Intelligence, too, didn't you?

If the gentleman doesn't know the answer——

Mr. MCCLORY. If the gentleman will yield, I think what happened is that someone in the building reported that to the FBI and——

Mr. RYAN. The superintendent of an apartment building furnished certain classified documents to the FBI that were found in the trash of that apartment.

Chairman PIKE. Weren't the so-called classified documents in fact the envelopes in which classified documents had once been contained?

Mr. RYAN. They were primarily envelopes. I understand, and I was not personally involved with this, that there was one document which had communications—intelligence coded words on it—which was classified top secret. I could be wrong in that.

Chairman PIKE. There was one document which was classified confidential. And I did have——

Mr. MCCLORY. If the gentleman will yield.

Chairman PIKE. Certainly; it is Mr. Field's time we are arguing over, Mr. McClory.

Mr. MCCLORY. That was reported to the FBI by someone or you somehow got information about it, isn't that correct? You are not carrying on an investigation of all of the trash of all of the staff and members of the committee, are you?

Mr. RYAN. No, sir, as I understand it, this was reported to the FBI by the superintendent of an apartment building where a staff member of this committee resided.

Mr. MILFORD. Mr. Chairman, I ask unanimous consent that Mr. Field's full time be restored to him.

Chairman PIKE. Without objection.

Mr. FIELD. Thank you very much, Mr. Milford and Mr. Chairman.

The memo about this trash cover, states—and again I quote from

a nonclassified document: "On August 23, 1972, WF-4868-S—" which we now know is plain IPS trash—"who has furnished reliable information in the past, gave the following information and/or material to Special Agent Robert W. Feuer."

Are you aware of that kind of document? Why would trash be referred to as a person who has furnished reliable information in the past?

Mr. WANNALL. Does it say a person?

Mr. FIELD. It says "who." "Who" usually refers to people.

Mr. WANNALL. I think it is a matter of the way the agent sets it up in the report.

Mr. FIELD. Are you aware that, in the course of rummaging through the trash, your special agent came across a typewriter ribbon which the FBI reconstituted and which contained a letter exclusively involving the sex lives of some employees of the Institute for Policy Studies?

Are you aware of that letter? If so, was that letter kept in your files and if so where?

Mr. WANNALL. I am not aware of the letter. I knew as a result of a reconstruction of a typewriter ribbon some document was produced. I have not seen the document. I was not aware of the contents of it.

Mr. FIELD. Perhaps the staff could provide to you a copy of that letter and you could explain why a letter like that, which almost totally involves sexual gossip, would be in the FBI's files on the Institute for Policy Studies.

Mr. WANNALL. Mr. Field, I have previously indicated I was in a position to try to address myself to policies and procedures and my knowledge with regard to specifics, if any, of these cases would be very vague. I don't usually get down to the——

Mr. FIELD. Mr. Wannall, you testified under oath last week that it was not the policy of the FBI to report on somebody's sex life if it had no relevance to the case. Did this person's sex activities have any relation to this case?

Mr. WANNALL. What is this document, Mr. Field? I don't have the first page.

Mr. FIELD. I believe that is all that was provided to the committee when we received the documents from the FBI.

Mr. WANNALL. This is not in the form of a document prepared for dissemination. In fact it is a memorandum from the agent to his supervisor in the Washington field office setting forth the results of the so-called trash cover in this instance.

At least that is what it appears to me to be.

Mr. FIELD. That is correct. In other words, it is not raw intelligence. This is now a finished product, often referred to as an analyzed product.

Why would this information make it through the analysis procedure if it was the policy of the FBI to screen out information about people's sex lives when they had no relevance to the investigation?

Mr. WANNALL. I think, Mr. Field, if you will check my deposition you will establish that I indicated that information of this type could well be recorded in our files but certainly not reported in a disseminative document.

Mr. FIELD. I took that to mean it obviously could be collected in raw form but it would not be reported further unless it had some relevance to the investigation.

We now see a memo in which some agent has analyzed this information and has included excerpts from it, and every single excerpt pertains only to sexual information.

Is that a correct analysis of that memo?

Mr. WANNALL. I have not read it. Do you want me to take a reading of it?

Chairman PIKE. I think my answer would be no. You have never seen this memo before?

Mr. WANNALL. No, sir.

Chairman PIKE. I think what Mr. Field is trying to elicit is that it certainly doesn't seem to comply with what you have stated your policy to be; so I think that rather than ask you to read it and analyze it at this time, we will drop that.

Mr. FIELD. Thank you, Mr. Chairman. I have no further questions.

Chairman PIKE. I want to thank you, Mr. Wannall. I do recognize the fact that when we deal in the policies of an organization we frequently find that we get surprised by some of the specifics that come up. I appreciate the fact that you did return this afternoon and that you did comment on some of these issues on rather short notice.

Mr. Dellums?

Mr. DELLUMS. Mr. Chairman, regarding the very last question that I asked of the gentleman with respect to IPS and Ramparts magazine, the staff has given me different information. Can I just ask one question before we adjourn?

Chairman PIKE. You may ask one question before we adjourn.

Mr. DELLUMS. Thank you.

In response to my question, wasn't the real reason for the IPS investigation their relationship with Ramparts magazine, your response was no; it was primarily concerned with SDS.

The staff has now provided me with information that says that the initial memorandum—which is dated November 1968—from your office, dealing with IPS, was exclusively devoted to Ramparts magazine, that it wasn't until a memorandum written in March of 1969 that there was any reference to SDS, and that there is in fact no evidence of SDS contacts with this organization.

Now that contradicts your testimony, and before we leave I wanted to give you an opportunity to address that.

Mr. WANNALL. Congressman Dellums, I gave you the best information I could, based on my having seen material. It seems to me that there was a meeting in Chicago sometime before we opened the investigation on that and during the course of briefing sessions which I have had over the last 3 or 4 days, including Saturday and Sunday, my recollection was that the principal interest that we had in the IPS at the time the case was opened, at least was contact with the SDS.

I did not try to mislead you or give you false information. I was trying my best to call up the facts as I recalled them from the briefing sessions.

[The FBI's response is included in its letter of November 28, 1975. See page 1127 of the appendixes.]

Chairman PIKE. Before we adjourn, I want to announce one thing. At our next meeting, which will be on Thursday, we will have available the report which it is necessary for us to provide prior to floor action in connection with certain of our subpenas. That report will be available for the members to approve at our next meeting which will be at 10 o'clock Thursday morning.

Mr. MCCLORY. And the opportunity for presenting additional or minority views will expire when?

Chairman PIKE. It will expire 1 week from Friday. Our committee rules appear to be in some conflict with the House rules, and I am therefore giving the broadest possible interpretation—which is to go by the committee rules, which give the members 5 days after the approval of the report. That is actually 6 days, but Thanksgiving comes in there and that is a holiday. So a week from Friday will be the last day for minority, additional, concurring or other views.

The committee stands in recess until 10 o'clock Thursday morning.

[Whereupon, at 4:45 p.m. the committee adjourned.]

LEGAL ISSUES—DOMESTIC INTELLIGENCE

WEDNESDAY, DECEMBER 10, 1975

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C.

The committee met, pursuant to notice, at 2 p.m., in room 2203, Rayburn House Office Building, Hon. Otis G. Pike [chairman] presiding.

Present: Representatives Pike, Dellums, Lehman, and McClory.

Also present: A. Searle Field, staff director; Aaron Donner, general counsel; John M. Atkisson, counsel; Peter L. Hughes III, counsel; James B. F. Oliphant, counsel; Richard S. Vermeire, counsel; and Ellen S. Mil'[illegible], investigator.

Chairman PIKE. The committee will come to order. This afternoon we are going to address ourselves to the question of the legal issues involved in domestic intelligence.

I want to thank all of the witnesses for being here.

Our first witness will be Mr. Louis Pollak, dean of the school of law at the University of Pennsylvania.

Dean Pollak, we thank you very much for coming. Please proceed with your statement.

STATEMENT OF LOUIS H. POLLAK, DEAN, SCHOOL OF LAW, UNIVERSITY OF PENNSYLVANIA

Mr. POLLAK. Thank you, Mr. Chairman. It is a privilege and a pleasure to be here. Perhaps for the record at the outset I should simply recite that I am a member of the bar in New York and in Connecticut—Connecticut because before moving to Pennsylvania and to that law school a year ago, I was for a great number of years at Yale.

I was about 5 years ago, for a year, chairman of the section on individual rights and responsibilities of the American Bar Association; and I have for many, many, many years been closely connected with the NAACP Legal Defense Fund, of which I am a vice president. I refer to all of these connections only to add that of course today I am speaking entirely personally and not for any institution, including the law school of which I am the dean.

In all these settings, my fundamental concerns for the law have been for the maintenance of constitutional liberties and I guess a feeling about the law that traces back to my very first professional obligation as law clerk in the late Justice Rutledge's office a quarter of a century ago. It is the sense that the maintenance of our constitutional

freedoms is the principal mechanism by which we can fulfill our national purposes and achieve national security in the fullest sense that makes it important for me to welcome this opportunity to be here and leads me to applaud, Mr. Chairman, your efforts, and those of your colleagues, in conducting this important inquiry into modes of domestic law enforcement.

I understand that one of your important concerns within recent weeks has been with the ways in which our chief national law enforcement agency, the Federal Bureau of Investigation, has carried out certain of its responsibilities; and you have focused closely on investigations which the Bureau has carried out over a great many years, of among other organizations, the Institute for Policy Studies and the Socialist Workers Party.

I had the opportunity of reading the transcript of your hearing of November 18 and also certain excerpts from staff interviews which your staff members conducted with officials of the Bureau on November 6. So it is against that background, Mr. Chairman, that I am speaking this afternoon.

Let me say at the outset that it is my conviction that a disciplined and effective national law enforcement agency can, of course, be a great national asset. At the same time, an effective national law enforcement agency, well funded and wielding greater power, is capable of doing very serious injury to the public welfare if it operates beyond its charter and intrudes upon areas of individual or group activity which the lawmakers have not intended, and indeed may have no authority, to regulate.

This potential danger is greatest when the jurisdiction of a law enforcement agency is nationwide, as is the case, of course, with the Federal Bureau of Investigation.

I see this especially to be a danger in a nation such as ours, which is, after all, a Federal State. When I say a Federal State, I mean that it is my sense that we are still a State built on dispersion of political power. And above all else, we are a nation dedicated to the preservation and expansion of individual and group freedoms, unfettered by governmental constraints.

It is for these reasons that it is so important for Congress to insure that the principal law enforcement agency of the Government—which is the Federal Bureau of Investigation—devotes all its resources to the conventional law enforcement jobs which, on the whole, it has done very well over the past half century. The corollary of this is that none of those resources be diverted to undertakings which Congress has not marked out for the Bureau, and/or which transgress the Constitution.

So I would commend this committee for inquiring into the persistent charges that a significant portion of the Bureau's energies have over the years been devoted to types of inquiries which Congress has not authorized, or which, indeed, the Constitution precludes.

I noted a moment ago that I have had the opportunity to examine the transcript of the hearing on November 18 and also excerpts from your staff's November 6 interviews.

For a moment I want to turn, then, to what those transcripts tell us about the Bureau's lengthy investigation of the Institute on Policy

Studies, on the one hand, and the Socialist Workers Party on the other.

The Institute for Policy Studies seems to have been investigated by the Bureau over a time period beginning approximately in 1968, and, as I understand it, concluded only sometime this year. I am a little uncertain about those dates because those are the dates I find in the transcript, and yet it gets described as 5½ years by some of the witnesses and this seems to be a little more, but surely we are in the range of about 6 years of inquiry into the institute.

At the same time, it appears from this committee's record that the Socialist Workers Party has been under inquiry by the Federal Bureau of Investigation for upward of 30 years—ever since the forties.

Apparently the Bureau is of the view that both investigations are justified by those provisions of the FBI's manual which deal with investigations of "extremists," and "subversive" groups and individuals.

Let me turn first to the investigation of the Socialist Workers Party. Now, given the fact that certain leaders of the Socialist Workers Party were successfully prosecuted under the Smith Act in the early forties, I can't really fault the Bureau for keeping the party under surveillance, at least up until the end of World War II.

I want to pause a moment there to say that I am not a very strong proponent of the prosecution that the Department of Justice did conduct, which I believe was the first Smith Act prosecution. It was directed against leaders of the Socialist Workers Party in Milwaukee, the so-called *Dunne* case, 138 F. 2d 137, which the Supreme Court declined to review in 320 U.S. 790.

It strikes me as an extraordinary sign of overkill for the United States in the middle of the war to have thought it was really worth its while to prosecute the leaders of that tiny and hopelessly ineffective group of dissidents, but that is past history.

There are some indications that Attorney General Biddle thought it useful to have a pilot case to test the Smith Act under, and that was it. Whether that is correct history or not, I can't vouch for.

The immediate point is that after all, those were policy determinations not made by the Bureau. And given the fact that the Smith Act was successfully invoked and against the Socialist Workers Party—even though I may think it was a waste of the Government's prosecutorial energies—I would say the Bureau can't be faulted for keeping the party under close scrutiny through the end of World War II.

But that, after all, only brings us to 1945, and when year after year after year followed after 1945 without the Bureau, with all its effectiveness, being able to uncover apparently any shred of evidence of any single instance of law violation by the Socialist Workers Party, I must say the case for continuing the Bureau's scrutiny of what can only be regarded as awkward rhetoric of an unpopular political party became weaker and weaker. And finally, following the decision in cases such as *Yates*, and *Scales*, and *Noto*—cases decided by the U.S. Supreme Court in 1957 and 1961, construing the Smith Act—which so drastically and properly, in my view, undercut the theory of the *Dennis* case, I would submit that there was no longer even a faintly

plausible legal theory on which the Bureau could justify persisting scrutiny of the Socialist Workers Party.

Certainly the proposition that mere abstract advocacy of "revolution" is not punishable, consistently with the first amendment, was a proposition which the Justice Department, including the Bureau, should have been aware of years before the Supreme Court's 1969 decision in *Brandenburg* v. *Ohio*, 395 U.S. 444.

Now, let's turn to the investigation of the Institute for Policy Studies. With all respect, the long maintenance of that investigation seems to me at least as hard to justify as the long maintenance of the investigation of the Socialist Workers Party. Some of the testimony which your committee has heard from officials of the Bureau carries a suggestion that it wasn't the institute, itself, which was under Bureau scrutiny, but rather certain persons connected with the institute—persons said to have had some sort of involvement with Students for a Democratic Society, or the Weathermen, or perhaps with members of those organizations.

Now, I suppose when the Bureau is in pursuit of particular people who are credibly linked with actual or imminent criminal activity, Bureau pursuit is presumably warranted. That would seem to me conventional law enforcement procedure.

But I submit that when substantial inquiry carried over a long period of time uncovers no evidence of law violation, it is then incumbent upon the Bureau—indeed incumbent in terms of its own Bureau manual—to close the investigation.

And it does seems to me, given the total absence of any indictments pursuant to the Bureau's investigations of the institute, the Bureau's continued probing of the activity for something like 6 years seems to support the inference that it was the institute as such and not particular people connected with the institute which was really the Bureau's target.

And I submit, Mr. Chairman, that this is an inference which seems supported by the statement by Bureau Section Chief Shackleford, which appears in the transcript of the staff interview of November 6, that "During the period of time of the Bureau's primary interest in IPS"—which I take to mean Institute for Policy Studies—"IPS was variously described as the think-tank of the new left."

What does all this add up to? In the past 30 years the Bureau's hot pursuit of the Socialist Workers Party seems to have produced nothing more interesting than the party's 1975 pronunciamento, with the exciting title, "The Decline of American Capitalism: Prospects for a Socialist Revolution."

I have in mind, Mr. Chairman, the testimony by Mr. Wannall who I believe is an assistant director of the Bureau, which I think, if I may be permitted to say so, is a nonresponsive answer to a question from Mr. Field. Mr. Wannall introduced into the record a quotation from "The Decline of American Capitalism: Prospects for a Socialist Revolution," and the quotation is, "The world crisis of capitalism does not favor extensive and effective long-term capitalism reform in the United States but development of the requisites for a revolution."

Now, if 30 years of inquiry into the Socialist Workers Party have not netted anything more exciting than that piece of didactic and one might say rather tedious, not even hortatory prose—which I suppose

is to be prophetic of what is happening to the American economy—it could indeed be a statement deploring what is happening, that if we don't have the capitalist system, something called revolution will follow.

But to suppose that that constitutes the kind of thing that anybody has any prosecutorial interest in, with all due respect, boggles this mind.

Now that seems to me, so far as I have been able to distill it, is what we have learned about the Socialist Workers Party after upward of three decades of official Bureau inquiry.

And what of the Institute for Policy Studies? Six years of investigating that organization seems to have produced nothing at all—not even anything as exciting as "The Decline of American Capitalism: Prospects for a Socialist Revolution."

I shouldn't say nothing at all. It has produced, Mr. Chairman, a report that your administrative assistant in 1972 called Marcus Raskin at the request of Congressman Byron Johnson. I assume that is an item that I am supposed to be intrigued by, but I would imagine there must be less expensive ways for the Government of the United States to bring that fact to public attention.

Chairman PIKE. If you will yield for just a moment to permit me to say something on behalf of the FBI, in view of the fact that it is my administrative assistant you are talking about: Further research into the matter reveals that it was not through tapping a phone that this was done. It was through reconstructing a typewriter tape in a garbage cover which they were maintaining on the institute. They got the typewriter tape out of the garbage; they did not tap the phone.

Mr. POLLAK. Congressman, I am very happy to have that footnote. I want to make it clear that I was not, in relating that episode which is referred to in the transcript, interested in accusing the Bureau of operating illegally, because I realize it was somewhat vague as to how this information was dredged up.

My point here goes to, if you will, waste of the Nation's resources—though I am impressed by the skills which were involved in reconstruction of conversation from garbage. It does suggest some uses for recycled garbage that hadn't occurred to me before.

Well, if you take these two investigations together, I submit, Mr. Chairman, that this paucity of useful product very dramatically illustrates the observation by Special Agent Ryan, which was also made in the November 6 staff interview, to the following effect: "The overwhelming percentage of our investigations are not those that would develop prosecution. We are looking for evidence."

Now, I refer to that observation by Special Agent Ryan because it seems to me that in this context it has a double significance.

The first significance is this: When a Bureau investigation continues long after the point of investigative nonproductivity, the investigation would, I submit, appear to be unauthorized by the Bureau's own standards. As I read the Bureau's manual—or to be more precise, as I try to probe an extraordinarily obscure Xerox of what purports to be the Bureau's manual—I find the following: "If it is determined that subject's current activities do not involve an actual or potential violation of one or more of the statutes enumerated * * * above, the case should be closed." Parenthetically, this is from paragraph (j) of that

portion of the Bureau manual which deals with "investigation of subversive organizations and individuals' reporting procedures." And the statutes referred to above are the Smith Act and comparable statutes.

The second significance is this: When the "subject"—to use the attractive bureaucratic term—is a political group such as the Socialist Workers Party, or an academic research organization, such as the Institute for Policy Studies, Bureau investigations which are unrelated to criminal activity would not only appear to be unauthorized in the sense that the manual indicates it is time to close off the investigation; they would also appear to be unconstitutional for they, at that point, trench upon realms of political and intellectual activity protected by the first amendment.

Now, Mr. Chairman, the first amendment concerns that I am voicing are these: I submit that ours is a country in which, as the Supreme Court observed a generation ago, "No official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion." I am quoting, of course, from the remarkable opinion for the Court of the late Justice Jackson in *Board of Education* v. *Barnette*, 319 U.S. 624, 642. That was a case decided in 1943 in the middle of World War II—a case which most splendidly demonstrates the power of a great democratic nation to support disagreement with standard views. That was, of course, the great flag-salute decision.

If that is the theme of our democracy, then when one gets sustained official investigation of a political party or of an academic institution, it seems to me necessarily that such an investigation is bound to disparage the constitutionally protected activity of the "subject" and to discourage participation in its work.

When the official investigation long outlives its initially professed justification—that is to say, reasoned suspicion of criminal activity imminent or actually carried out—at that point it is inescapable, I suggest, that an important consequence, if not necessarily a purpose, of the continuing investigation will be the imposition of an official stigma on the political or research activity being carried out by the "subject."

Just such an official stigma would seem to constitute the sort of "chilling effect" which the Supreme Court has repeatedly found to be incompatible with the preservation of first amendment freedoms.

Now, Mr. Chairman, in voicing these first amendment concerns, I am not venturing the prophecy that litigation seeking to enjoin the continuance of such an unjustified official investigation would be successful.

On the contrary, I am afraid I read cases, such as *Laird* v. *Tatum*, 408 U.S. 1, as indicating that judicial relief would be hard to come by.

You will recall, Mr. Chairman, that *Laird* v. *Tatum* was a recent case in which a divided Supreme Court held that a Federal district court could not entertain a lawsuit seeking an injunction against military surveillance of civilian political activity.

Now, the reason, I submit, that the courts would not be likely to give the kind of relief that perhaps would be helpful is not that the courts would see no unconstitutionality in the challenged official action. It

is rather that the courts would be reluctant to try to subject these forms of executive action to judicial control. That, at least, is the chief lesson of *Laird* v. *Tatum*, itself. In finding that particular lawsuit nonjustifiable, Chief Justice Burger ventured a dictum which I would urge this committee to weigh very carefully. To entertain complaints such as that filed in *Laird* v. *Tatum* would, so the Chief Justice said, "have the Federal courts as virtually continuing monitors of the wisdom and soundness of executive action; such a role is appropriate for the Congress, acting through its committees and the power of the purse; it is not the role of the judiciary, absent actual present or immediately threatened injury resulting from unlawful governmental action." That is at 408 U.S. 15.

I don't mean in quoting the language to be saying that I entirely subscribe to the Court's decision in *Laird* v. *Tatum*. In my view, the plaintiffs substantially alleged "present or immediately threatened injury," to use the Chief Justice's words; and I therefore agree with the court of appeals which found that the plaintiff had presented a justiciable controversy.

But my purpose here is neither to endorse or quarrel with the Chief Justice's holding for the Court. My purpose is to suggest that the decision, though I think it represents a far less pointed injury than the kind of injury that is demonstrable on the records before this committee, suggests a judicial reluctance to fashion injunctive relief, which inescapably points to the Congress as the primary source of responsibility. And this is as it should be when the problem is that executive agencies established by Congress may, to some substantial degree, be traveling beyond their authorized character.

This is a problem closely comparable with the problem which—with respect to foreign affairs—engaged this committee's attention this morning at the session at which Messrs. Katzenbach, Bundy, and Fisher testified.

Now, in the last 3 years, a number of congressional committees have heard substantial evidence of investigative excesses by various Federal agencies, including the Bureau. With commendable candor, agency officials have in some instances acknowledged that some of these excesses were indeed abuses, sometimes illegal abuse. But other episodes which I would characterize as excesses—such as the Bureau's investigations of the Socialist Workers Party and of the Institute for Policy Studies—that is to say, the long maintenance of those investigations after any conceivably defensible product had been found not to exist—these seem to be defended by agency officials as proper exercises of agency authority.

Now, if this commitee feels, as frankly I feel, that various aspects of Bureau policy and practice still require correction, it would then seem to me appropriate for this committee to take a leaf from the Chief Justice's dictum in *Laird* v. *Tatum* and propose devices for congressional oversight of the Bureau's policies and practices. But I would urge such oversight must be structured in such a way as to be indirect and occasional. A legislative oversight committee which is engaged in direct and continuing supervision of Bureau investigation strategies could easily become the managers of a major segment of law enforcement efforts—in flagrant derogation, so it would seem to me, of the constitutionally mandated separation of powers.

I suggest, Mr. Chairman, that whether or not this committee recommends that Congress assumes an oversight role, this committee should stress the importance of effective supervision of Bureau investigations by the senior officers of the Department of Justice. I would submit, Mr. Chairman, that the most striking aspect of the testimony I have read is the sense that the Bureau's operations—at least with respect to the particular investigations we have been discussing—have been almost totally insulated from any supervisory strategies agreed on at the highest levels of Department of Justice authority.

Perhaps I am in error in drawing that inference, but the terms "Attorney General" and "Deputy Attorney General"—terms which I thought were descriptive of the responsible senior officials in the Department of Justice—are striking, in this record, by their absence.

So I would suggest to this committee that all proposed Bureau investigations of extremist or subversive groups and individuals be undertaken hereafter only with the written assent of the Attorney General or the Deputy Attorney General.

And when I speak of written assent, I mean something far more than an initial at the bottom of a form statement. I mean the kind of written assent which reflects active, intelligent understanding of what it is that the Bureau wants to undertake and why it wishes to undertake it.

I would further urge, Mr. Chairman, that the status of all such investigations—that is to say, all investigations of what might be called a political nature—be reviewed by a senior departmental committee on a monthly basis with a view to discontinuing those investigations not plainly warranted by conventional law enforcement standards.

When I speak of monthly review by a senior departmental committee, I am not suggesting, of course, that this is the kind of procedure to be written into legislation; but it might well be argued by this committee, or by the proposed oversight committee, as a procedural device to be adopted by the Attorney General. I am thinking of a senior departmental committee composed of, for example, the Deputy Attorney General, the Assistant Attorney General in charge of the Criminal Division, the Assistant Attorney General in charge of the Civil Rights Division, and the Assistant Attorney General in charge of the Office of Legal Counsel—something of that level of dignity and variety of responsibilities.

Finally, I would say, Mr. Chairman, that if congressional oversight is contemplated—and I think it would be a good idea within the limitations I have suggested—it would be appropriate to have the Attorney General personally report on a quarterly basis to the oversight committee on the overall pattern of the Bureau investigations; and I would like to see in such a report a description both of the political and the conventional investigations.

Mr. Chairman, in closing, I would ask your indulgence to let me read one extraordinarily prescient paragraph from one of our most distinguished American lawyers. The paragraph is from the posthumous book by Mr. Justice Jackson, "The Supreme Court in the American System of Government."

Mr. Justice Jackson—whose extraordinary experience included not only service as Solicitor General, Attorney General, Associate Justice

of the Supreme Court and Chief U.S. Prosecutor at Nuremberg—had this to say:

> I cannot say that our country could have no central police without becoming totalitarian, but I can say with great conviction that it cannot become totalitarian without a centralized national police. At his trial, Hermann Goering, with great candor, related the steps by which the Nazi Party obtained complete domination of Germany, and one of the first was the establishment of the supremacy of the nation over the local police authorities. So it was in Russia, and so it has been in every totalitarian state. All that is necessary is to have a national police competent to investigate all manner of offenses, and then, in the parlance of the street, it will have enough on enough people, even if it does not elect to prosecute them, so that it will find no opposition to its policies. Even those who are supposed to supervise it are likely to fear it. I believe that the safeguard of our liberty lies in limiting any national policing or investigative organization, first of all, to a small number of strictly Federal offenses, and, secondly, to nonpolitical ones. The fact that we may have confidence in the administration of a Federal investigative agency under its existing heads does not mean that it may not revert again to the days when the Department of Justice was headed by men to whom the investigatory power was a weapon to be used for their own purposes.

Mr. Chairman, in quoting Mr. Justice Jackson's words, I do not, of course, mean to suggest that the Bureau—particularly under its present leadership and especially under the headship of the present Attorney General—has not regarded and does not regard the preservation of our democratic values as indeed our chief responsibility. But I think the record of the past developed before this committee and other committees is one which aptly demonstrates the concerns which Mr. Justice Jackson highlights.

We must build our governmental structures to protect against abuse as we cannot always count upon the most highminded among us being the repositories of enormous official power.

Chairman PIKE. Thank you very much, Dean Pollak. We have a vote on the floor of the House right now. I think it would be an appropriate time for us to go over and vote.

The commitee will stand in recess until 5 minutes to 3 when our next witness will be Mr. William K. Lambie, the associate executive director of Americans for Effective Law Enforcement.

[Brief recess while the members voted.]

Mr. DELLUMS [presiding]. The chair would like to indicate that we have been in touch with the office of Mr. McClory, who is the ranking minority member of this committee.

He indicates that he is tied up on the floor but that the Republicans will waive their rights. Therefore, we will commence the hearing.

Mr. Lambie, you are recognized and you may proceed.

STATEMENT OF WILLIAM K. LAMBIE, ASSOCIATE EXECUTIVE DIRECTOR, AMERICANS FOR EFFECTIVE LAW ENFORCEMENT, INC.

Mr. LAMBIE. Thank you, Congressman. First, I would like to thank you, and through you the chairman and other members of the committee and particularly the staff, for their courtesy and assistance. I am delighted to be here.

My name is William K. Lambie. I am associate executive director of Americans for Effective Law Enforcement in Evanston, Ill.

I am an attorney. I have a prepared statement which I am going to read rather quickly because it is embarrassingly long. But I will try to get through it fast.

I think a panel discussion such as this is probably more enjoyable if there is a divergence of view. I believe I am about to present one now.

Americans for Effective Law Enforcement has as its purpose the providing of a responsible support for proper law enforcement. AELE is not a "police, right or wrong," organization. We do not support abusive or unprofessional police practices of any sort; rather, we call for a balance which takes into consideration the rights of the law-abiding and of the innocent victims of criminal acts as well as the rights of the criminal accused.

This committee, with other committees on both sides of the Capitol, has been active in probing the activities of U.S. Government agencies in the broad sweeping areas of intelligence gathering and privacy.

The entire issue is of critical importance to law enforcement agencies at every level of government. Intelligence gathering is, of course, nothing more than the acquisition of knowledge.

Generally speaking, the proponents of what we in AELE refer to as the total privacy concept have succeeded in promoting three basic types of legislation aimed at either restricting the dissemination of criminal records or imposing restraints on future police conduct.

Legislation, past and pending, which has as its purpose the restriction of the use of criminal records has sought to obtain greater accuracy and completeness in the keeping of criminal histories, certainly reaches a praiseworthy goal, but it has also sought to restrict the use of such information in a variety of ways.

Some proposals have sought to restrict the free exchange of arrest information; that is, that information that records only arrests but not dispositions. Some have sought to restrict dissemination of records and arrests that have resulted in acquittals, dismissals, or nolles and, in some instances efforts have been made to have such records sealed or expunged.

The exponents of this latter effort always cite, as the basis for their reasoning, the constitutional presumption of "innocent until proven guilty beyond a reasonable doubt." While few would seek to change this standards of evidence, most would agree that it is highly flawed logic to raise the presumption of innocence to a fact of innocence.

All of the proposals seeking to restrict the dissemination of criminal histories, would deny any access to persons outside the criminal justice system.

Other legislation is aimed at prohibiting certain investigative techniques, held to be somehow more evil than others by those who advocate total privacy. Hence some bills have sought to prohibit or restrict the use of electronic surveillance, physical surveillance, informants or undercover agents, access to financial records, access to utility company records or access to other government records. As in the case of criminal histories would deny any access to persons outside levels as well as at the Federal level to impose such limitations in the absence of specific legislation.

The third type of legislation, and the most all-encompassing, would restrict the initiation or continuance of the investigation itself until

certain standards had been met. The standard has been generally stated as "reasonable suspicion that an offense has been committed or is about to be committed."

It is obvious that this implies that some form of court order or determination would be required to commence any sort of investigation under such a statute and it is difficult to imagine, in many cases, how the police will acquire a reasonable suspicion in the absence of the legal authority to conduct any investigation in the first instance.

The types of legislation that would inhibit certain investigative techniques or the investigative process itself would, in our judgment, place in serious jeopardy the entire intelligence-gathering function of law enforcement and, thus, render the police community virtually impotent in its activities having to do with the prevention of crime. The most serious effects of such bills would be felt in the battle against organized crime and in the efforts to thwart the mounting problems of terrorist bombings, kidnapings, ambushes and hijackings.

Most of the current legislation is, indeed, intended to strip the police of their powers to investigate political organizations. The absolutists seem more and more willing to accept the notion that any group or association that professes political motivation must be free from any law enforcement efforts to discover its purposes, motives, or its relative proclivity for violence.

The absolutist view on intelligence gathering was fully outlined in October 1971, at the so-called Princeton Conference on the FBI. There the view was nearly unanimous that the FBI was engaging in too much investigation of political dissidents despite the recent occurrence of a number of acts of terrorist-type violence.

The conferees tended to agree that there should be a sharp curtailment of such intelligence-gathering techniques as infiltration and surveillance of extremist groups, the keeping of intelligence files and the practice of electronic surveillance.

The critics of the FBI at Princeton divided into roughly two groups. The first group, whose champion was Prof. Vern Countryman of Harvard Law School, took the position that there should be no political surveillance whatever by the FBI and presumably none by local authorities either.

The second moderate group grudgingly admitted the need for FBI intelligence work in cases of actual criminal conduct (that is, bombings, arsons, attacks on law enforcement officers), but would restrict surveillance or other intelligence-gathering activities to those cases in which an actual crime had been committed or seemed imminent.

While the latter school of thought is reflected in much of the current legislation, it is clearly influenced by the former and Professor Countryman's thesis, carried to its logical extension, is frightening.

It can best be summed up by a colloquy which took place between Countryman and AELE's executive director, Frank Carrington, at the Princeton Conference.

Carrington had pointed out a recent racially-inspired bombing of school buses in Pontiac, Mich., that had been perpetrated by the Ku Klux Klan, and was solved in a matter of days by the FBI which had used precisely those techniques most deplored by Countryman and the others. The following dialog ensued:

COUNTRYMAN. Well, my judgment would be that if the only way to detect that bombing is to have the FBI infiltrating political organizations, I would rather the bombings to undetected.

CARRINGTON. No matter whether somebody was killed?

COUNTRYMAN. Yes, yes, there are worse things than having people killed. When you've got the entire population intimidated, that may be worse. We put some limits on law enforcement in the interest of preserving a free and open society or at least we try to, and every time we do that—things like the privilege against self-incrimination, things like the fourth amendment, every time we do that, that involves a judgment that even though some crimes and some crimes involving the loss of life will go undetected, it is better in the long-run to have a society where there is some protection from police surveillance.

CARRINGTON. I'm not sure that the family of Robert Fasnacht who was blown up at Wisconsin or the families of the kids who were killed in the Birmingham church bombing would agree with that.

COUNTRYMAN. I'm not sure that the families of the victims would not agree in any of the instances that I've mentioned but I don't believe that most of us would say that for that reason we should repeal the fourth and fifth amendments.

This abstractionist view of constitutional absolutism is precisely the view now appearing in the form of legislative sanctions aimed at restricting police conduct. Perhaps even more remarkable than the callous indifference it shows for the victims of crime is the underlying premise that it must be one way or the other; that the police are inherently evil and if we allow them to do their jobs, we will lose our "free and open society."

History, of course, seems to controvert this theory because if it seems to show us that our society is somehow becoming less "free and open," it also shows that this lessening of freedom has taken place during precisely the same period during which the courts and legislatures have been placing ever tighter reins on police conduct.

We cannot altogether dismiss our inherent love of a free and open society, nor should we any more than we should lose sight of the possibility—however presently remote—of the imposition of a police state. Yet the suggestion that sharp restrictions, placed on the police capacity to prevent crime, will somehow make us more free, leads directly to the notion that the removal of all lawful restraints will make us absolutely free—the pure lunacy of the anarchist.

The real argument, then, relating to the limits of the legitimate police function with respect to the gathering of intelligence, does not suggest that there is a "black or white" dichotomy between the positions of "law and order" and libertarian absolutism, but rather that there is one of seeking a balance within diverse philosophical approaches that seek the same goals by different means.

Those who take the absolutist position with respect to intelligence operations targeted against possibly dangerous "political" groups also find that their intellectual integrity—which, we concede, is usually considerable—requires that they take the same position with respect to the activities of organized crime or even traditional street crime.

For example, one bill recently introduced in this House would make it a crime for any law enforcement officer to install any form of electronic surveillance even with a court order, or even with the consent of one of the parties. This would mean, of course, that in the investigation of a "traditional" kidnapping for ransom, the police could not install a wiretap or recording device on the telephone of the victim to be able to intercept demands for ransom or other calls from the kidnappers.

The Massachusetts Congressman who introduced this bill doubtless seeks to affix the seal of the confessional upon all oral communications.

While such a concept is patently ridiculous, it is no less so than many others now occupying the time of both the Congress and the Nation's law enforcement community.

Police intelligence-gathering activities, Federal or local, have been historically directed against two major groups: The crime syndicate and subversive activities. The former target consists of professional criminals who conspire or act in concert to violate laws proscribing gambling, prostitution, narcotics, and drug use, and similar offenses. Hijacking, the infiltration of legitimate businesses, extortion and bribery are related crimes perpetrated by organized crime figures.

Subversive activities refers to those persons or groups who commit sabotage, acts of terror, kidnaping, bombings, arson and lesser offenses for primarily political purposes. Oftentimes the principals in politically motivated crimes involve themselves in or assume leadership of political action groups that ostensibly seek reform through peaceful methods such as picketing, protest assemblies and rallies.

Other common but less traditional police intelligence activities involve the investigation of labor racketeering, burglary rings, juvenile "gang" activities of a criminal nature, and corrupt practices by public employees.

The issue of "privacy" as it is being debated today is not in fact a single issue but rather, at the very least, a double one. If one accepts the definition of privacy set forth by Mr. Justice Brandeis in the famous decision of *Olmstead* v. *United States*, 277 U.S. 438 (1929), as "the right to be left alone," then we must take it to mean a freedom from Government or other interference in man's present or future conduct. Yet much of today's debate, stimulated by the booming growth of computer technology and ever-burgeoning bureaucracy, deals with events of the past history that cannot be changed by any act subsequent to the event.

This issue arose on the first occasion upon which primitive man made a crude image on the rock wall of his cave for, even then, man could record, though crudely, only the events that had come to his knowledge. In that context, nothing has changed since that day except man's capacity to record those events. It would seem that our technological advances in this ability would serve primarily to record the history of humankind more fully, more truthfully and more accurately than ever before. Yet it is this very capacity of man to perfect his memory of things past that seems most feared by the advocates of privacy.

Does our "right to be left alone" include a requirement that we selectively forget the past, the immutable and unchangeable facts that are the sum total of history? The total privacy concept seems to argue that we must.

The concept would seem to argue, too, that "the right to be left alone" is virtually absolute—that society has no right, even for its own protection, to interfere with the present or future conduct of one of its members until after it has been discovered that he has broken one of society's rules of conduct and, in so doing, has violently transgressed someone else's "right to be left alone."

The Constitution of the United States imposes an affirmative duty upon the Chief Executive to "preserve, protect, and defend" the Con-

stitution. It grants him exclusive authority to conduct the foreign affairs of the Nation and guarantees the United States a "republican form of government."

Taken together or even considered separately, these clauses confer upon the President not simply a right but, rather, a duty to defend and protect the security of the Nation from threats to unlawfully overturn its form of government.

With respect to authority of the Chief Executive of the United States as it relates to threats posed by foreign nations, organizations or individuals, his power to act without prior judicial authority has been uniformly upheld by case law.

In the most recent case in which this question was raised, *United States* v. *Ivanov*, 494 F. 2d 593, cert. denied 95 S. Ct. 147 (1974), the U.S. Court of Appeals for the Third Circuit, sitting en banc, agreed with the district judge on the correctness of this contention and every other court which has considered the issue has approved warrantless electronic surveillance for the gathering of foreign intelligence information as reasonable and constitutional.

[NOTE: Mr. Lambie's prepared statement subsequently read as follows:]

See *United States* v. *Brown*, 184 F. 2d 418, 425–427 (CCA–5), certiorari denied March 4, 1974, No. 73–5620; *United States* v. *Clay*, 430 F. 2d 165 (CCA–5), reversed on other ground, 403 U.S. 698; *Zweibon* v. *Mitchell*, 363 F. Supp. 936, 942–944 (D. D.C.); *United States* v. *Hoffman*, 334 F. Supp. 504, 507–508 (D. D.C.) See also *Katz* v *United States*, 389 US. at 363–364 (White, J., concurring); *Giordano* v. *United States*, 394 U.S. 310, 314–315 (Stewart, J., concurring); Rogers; "The Case for Wiretapping," 63 Yale, L. J. 792, 797–798 (1954).

Certainly we agree with and concur in this line of cases and authorities.

The Supreme Court has apparently restricted executive authority in wiretap cases to coverage of "foreign" intelligence as opposed to domestic intelligence in *United States* v. *United States District Court*, 407 U.S. 297, the *Keith* case, but only by differentiating between organizations of foreign and domestic origin, a difference which in our view seems wholly artificial, arbitrary, and unrealistic.

Indeed, we would suggest that the court was in error in this case, one which involved a plot by domestic terrorists to blow up a CIA office in Ann Arbor, Mich., and, if anything, it illustrates the incapacity of jurists, even at the Supreme Court level, to comprehend the nature of terrorist groups and the complexity of the task of gathering intelligence data needed to protect the Nation.

Be that as it may, even in that case the Court did not disturb the right of the President, acting through the Attorney General, to exercise executive authority in instituting or maintaining electronic surveillances on foreign groups or individuals in order to defend the security of the Nation. It is extremely doubtful that the Congress can constitutionally remove that authority from the executive by any means short of a constitutional amendment.

In fulfilling his duty to protect the country from foreign subversion, the President must act upon informed judgment, and thus must have access to all relevant and pertinent information. He cannot wait until an overt act has been committed and then proceed in a law enforcement mode, as would be the case in other violations of the law. He

must be able to act in advance to counter acts of insurrection, espionage, sabotage, or other acts which may constitute a threat to the Nation's safety.

The gathering of intelligence information is not undertaken in these cases in order to proceed with prosecution but, rather, is undertaken for the purpose of the executive's having sufficient knowledge to prevent threats to the viability of the Government from reaching fruition.

The President's authority to act without the issuance of a warrant in such cases has been specifically recognized by the Congress in the passage of the Omnibus Crime Control and Safe Streets Act of 1968 in which the Congress properly excluded national security wiretaps from the warrant requirements set down in that act.

Since 1940, under Executive orders, renewed, in turn, by succeeding Presidents, the Chief Executive has authorized electronic surveillance in national security cases. He has delegated to the Attorney General the power to act for him in authorizing such surveillance without seeking prior judicial consent. As most of us are well aware, the need for this authorization is not less today than it has been in the past.

This authority, like any other executive authority or power, is obviously capable of abuse. Indeed, if Congress were to attempt to remove every area of executive authority that might be abused, it would have to remove all executive authority and would, with each act, run headlong into one constitutional barrier after another.

This authority, like all others granted to the executive, is subject to checks and balances, and in the instance of intelligence-gathering activity, to review by the courts which may properly act to curb or even punish cases of arbitrary or capricious exercise of executive authority. No further act of Congress is necessary to implement the power of the courts in this regard.

To require the issuance of a warrant for national security electronic surveillances would seriously frustrate the Government's legitimate purpose for such surveillances, a purpose that is most often the preventative gathering of information rather than the gathering of evidence for purposes of prosecution. Simply because such surveillances are of an intelligence-gathering nature, they are no less vital to the safety of the Nation. Indeed, they may most often be more vital and, therefore, must be undertaken with maximum secrecy and maximum expedition. They will most frequently be required under conditions that fall far short of conventional probable cause as understood by a magistrate or judge.

Any requirement for the prior issuance of a warrant in foreign national security cases would place the Executive on the horns of a most unpleasant dilemma. Because of the highly sensitive or secret nature of much of the information needed to justify such a warrant, because of the need to safeguard the very lives of agents or informants or their families, because of the possibility of the compromise of active informants or of other concurrent investigations, all being undertaken in the interest of national security, the Government might be required to forego the installation of a wiretap of a very high degree of importance, even at the risk of allowing future acts of espionage or a violence in which innocent victims might be killed or maimed, rather than being forced to divulge even minimal facts to a magistrate who can in no way guarantee their security. Such facts would become immediately

available to court reporters, secretaries and other court officers and all of us are thoroughly familiar with how frequently highly sensitive facts have been leaked to the news media or to others from such sources.

In short, any requirement for the issuance of warants in national security cases would completely remove the absolutely necessary element of security and secrecy from the investigative process, thereby nullifying the purpose of the surveillance itself, though the need might remain critical.

I think the Supreme Court has specifically upheld the need for secrecy in dealing with foreign affairs. I have a lengthy court quote in here which, again, I will not go into.

[NOTE: Mr. Lambie's prepared statement subsequently read as follows:]

The Supreme Court of the United States has clearly recognized the need for secrecy in the handling of foreign affairs by the Executive. In a case of a considerably lower level of sensitivity than the security of the Nation, the Court said in *Chicago and Southern Airlines, Inc.* v. *Waterman* (333 U.S. at 111):

The President, both as Commander-in-Chief and as the nation's organ for foreign affairs, has available intelligence services whose reports are not and ought not be published to the world. It would be intolerable that courts, without the relevant information, should review and perhaps nullify actions of the Executive taken on information properly held secret. Nor can courts sit "in camera" in order to be taken into executive confidences. But even if courts could require full disclosure, the very nature of executive decisions as to foreign policy is political, not judicial. Such decisions are wholly confined by our Constitution to the political departments of the Government, Executive and Legislative. They are delicate, complex and involve large elements of prophecy. They are and should be undertaken only by those directly responsible to the people whose welfare they advance or imperil. They are decisions of the kind for which the Judiciary has neither aptitude, facilities nor responsibility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry * * *.

So it is that we respectfully urge upon this committee the view that the imposition of prior judicial review upon the political and constitutionally mandated acts of the Executive is an unwise and unconstitutional restriction upon executive authority.

Aside from considerations of policy and constitutional law, there are broad, pragmatic issues, affecting the daily lives of all law-abiding citizens which should be considered, as well, by the committee.

One backlash of some of the Nation's recent political agonies has been a highly sensitized interest in the "right to privacy." It has been the subject of innumerable bills in the Congress and in the legislatures of various States, ten of thousands of editorial words, scholarly seminars and administrative regulatory actions. The right to privacy, guaranteed in the first and fourth amendments, is held in universally high esteem, cherished as one of the finest gifts of the Founding Fathers.

Yet there are broad, and sometimes sharply conflicting, differences in view regarding the nature and scope of that right. The right to privacy, like all rights, is not absolute and has certainly never been extended by any court to include a right to conspire to violently overthrow the established Government of the United States, nor to conspire to commit other unlawful acts.

Until recent years, the entire matter of national security has been treated as one of exclusive interest to the Federal Government and, of course, it is the Federal Government which must, constitutionally,

defend our Nation's security. But, during the past decade, through a dramatic escalation of acts of terrorist-type violence—all of which also constitute crimes over which State and local police have jurisdiction—all levels of law enforcement have found a pressing and immediate interest in what was once an exclusively Federal prerogative.

Nonetheless, it is the responsibility of the President of the United States, as Chief Executive, to assure that our constitutional system of Government is fully protected from all efforts to overthrow it by violent or unlawful means whether those efforts are directed by or linked to foreign nations, domestic groups owning some philosophical allegiance to foreign nations, or domestic groups seeking to destroy the Government for their own ends.

At one time, we considered the main threat to our Nation to come from hostile nations without our borders acting by means of espionage, sabotage, or by other unlawful means to attack the security of the Nation. These threats, of course, still exist. In more recent years, however, the threat to the security of all free nations has shifted to the forms of terrorism, kidnaping, extortion and robbery committed by groups that may give lip service to foreign nations or their ideologies but have little or no visible connection with them.

So it is that while the purpose of such acts may be "political" in the sense that they are designed to begin a struggle to overthrow the Government and are, hence, a threat to national security, their execution also constitutes criminal acts over which State and local authorities have investigative and prosecutorial authority.

As a consequence, local law enforcement has a vital interest in the outcome of any efforts to curtail intelligence-gathering activities. A city policeman on patrol duty is the one most likely to respond to a "bank robbery in progress" call and if he is shot down while trying to thwart the robbers, it is of little concern whether or not they may or may not have been motivated by "political" objectives. Indeed, would it not have been far better if the robbery could have been prevented in the first instance by a massive and coordinated Federal and State response to previously gathered intelligence information, obtained by wiretaps or any other means?

The threat is neither isolated nor illusory. The recent waves of terroristic violence committed by the so-called Symbionese Liberation Army or FALN have been mere examples of a problem which seems more likely to increase than to diminish as time goes on.

High officials of the FBI have given this committee and others extensive data concerning the threats posed by terrorist groups, organized crime and ordinary crime. It can hardly be argued that the problem has, in any way, diminished.

Should not the prime interest of the Congress be for the victims, dead and maimed, and for the future victims of these "political" acts of terrorism, and the victims of all other crimes as well, rather than for the theoretical, abstract or speculative threats to a right to the kind of privacy so necessary to plan their execution?

Now, because of admitted and recognized abuses of authority by a few people in high places, the Congress and many States are considering legislation that would critically hamper State and Federal law enforcement agencies in meeting their responsibilities in all their fields of interest—the "privacy" bills. It is fundamental to the law that

each man is responsible for his acts and for the logical consequences that flow from them. It is equally fundamental that one of the consequences of any human act is that it cannot be erased, taken back or even necessarily forgotten. It is, hence, historic and capable of discovery and memory—and why not?

Beyond question, the plotting of crimes, whether undertaken for profit, revenge or for "political" purposes is hoped by the plotters to be secret and private. The first function of law enforcement, Federal, State, or local, is to prevent such crimes thereby saving potential victims from harm or damage. Law enforcement, if it is to meet that priority responsibility, must not be totally foreclosed from penetrating that veil of privacy. The courts and legislatures have largely restricted law enforcement efforts at penetration with respect to most criminal acts in the interests of maintaining and expanding fourth amendment guarantees.

The Congress is now weighing much more drastic foreclosures of law enforcement efforts by restricting the detection of plots against the security of the Nation by restricting the gathering of prior knowledge about criminal acts and by restricting the dissemination of law enforcement information about criminal acts that are certainly not private acts.

The entire package of privacy legislation of which the instant bill is a part would add to the internal peril by emasculating the efforts of proper and effective law enforcement, thus laying the Nation open to the ever-increasing perils of criminal terrorism and violence.

Mr. DELLUMS. Thank you very much, Mr. Lambie. We appreciate your testimony.

We will now proceed to Mr. Tigar.

STATEMENT OF MICHAEL E. TIGAR, WILLIAMS, CONNOLLY & CALIFANO; ADJUNCT PROFESSOR OF LAW, GEORGETOWN UNIVERSITY LAW CENTER

Mr. TIGAR. Mr. Chairman and members of the committee, my name is Michael Tigar. I am a practicing lawyer in the District of Columbia and a teacher of law with experience in the field of wiretapping and political surveillance.

I begin by addressing matters which appear on the committee's record. You have inquired whether the FBI ever dissembles concerning unlawful activity of its agents, and whether the FBI ever works hand in glove with local police agencies who are engaged in unlawful conduct. I present two short examples.

In *United States* v. *Nesline*, a case tried in this jurisdiction, the Government overheard the defendant on an illegal listening device in Miami. The information thus obtained was sent to the Washington field office of the FBI labeled as having come from "MM 972–C*." The asterisk indicated, in FBI code, that the information came from an unlawful bug.

The FBI Washington case agent forwarded this unlawfully obtained material to attorneys in the Department of Justice, but identified the source with a new symbol, "WFT–170." A Government attorney testified in the *Nesline* case that he understood this latter

symbol to mean that the information had been supplied by a live informant. Thus, the FBI adopted a means of deceiving its own lawyers and attempted to have the Justice Department attorney represent truthfully that which was, in fact, an untruth. There are other examples of such conduct and I have provided those to the committee.

A second example: In February 1968, H. Rap Brown was being held in Orleans Parish Prison awaiting trial on Federal gun charges. He spoke by telephone with his attorney, William Kunstler. This conversation was recorded by Parish officials, under the direction of a New Orleans Police Department intelligence squad member, Sgt. David Kent. Kent then handed over the information obtained from this interception of attorney-client communications to Special Agent Robert J. Heibel of the FBI. Agent Heibel did not see fit to record the illegal source of the information, so he began his memorandum, "a confidential source who has furnished reliable information in the past advised as follows."

The document containing this meretricious heading was then classified "Secret." I have seen the document in question, and have cross-examined Agent Heibel under oath concerning it. What I have so far told you appears in public records of that proceeding which was conducted before Judge Mitchell in New Orleans. I am under an order of the court not to disclose the contents of the document, though it reveals governmental conduct of a particularly reprehensible nature. I assume the committee has means to obtain that information if you are interested in it. The committee has its own powers.

The previous speaker referred to a purported executive power to conduct searches and surveillances without judicial authorization. The constitutional history of search and seizure belies the existence of any such power. Fresh within the memory of those who drafted the fourth amendment were the English cases of *Entick* v. *Carrington* and *Wilks* v. *Wood* in which the British House of Lords had sternly and unmistakably held the so-called "executive warrant" to be unlawful. It was the intent of the framers of the Constitution to embody the rule of these cases in the fourth amendment.

Moreover, James Otis, a lawyer in Boston, litigated in 1761 against the writs of assistance, which bear a resemblance to modern authorizations for wiretapping. Of Otis' vigorous defense of the colonists' rights to be secure in their homes, John Adams wrote "then and there was the child Independence born." I think that in this history, as reaffirmed by *United States* v. *United States District Court*, 407 U.S. 297 (1972), one may find the answers to Mr. Lambies' contentions.

Further, I assume this committee is not talking today about doing away with the exclusionary rule in criminal cases. I believe it is the committee's intent to leave the rule where it is, and to approve the uniform application of that rule. The exclusionary rule's relevance to these questions of surveillance is precisely this: Whatever may be the powers of the executive branch, in pursuit of some goal of foreign affairs or foreign intelligence, to lie, cheat, steal, maim, burgle or kill, the Federal courts sitting in criminal matters are a kind of sanctuary in the jungle, and the fruits of such activities may not be made the basis of a criminal conviction.

The committee addresses, rather, the more difficult question of regulating—by means other than the exclusionary rule—the gathering

of intelligence information by informers, bugs and wiretapping for the purpose of dossier-building.

"The odious and reptile tribe of spies and informers," as one Member of this House described it during debates on the Alien and Sedition Acts at the dawn of our Nation's history, has been an object of scorn and obloquy since pre-Revolutionary days. See, Reid, In a Defensive Rage, 40 N.Y.U. L. Rev. 1043 (1974).

Modernly, the Supreme Court has taken an inconsistent and unclear position. In a number of cases, the Court has been confronted with the evident unreliability of such informers. The sorry record of perjury on the part of FBI informers in the 1950's is chronicled in, for example, *Mesarosh* v. *United States*, 352 U.S. 1 (1956); 1 Emerson, Habner & Dorsen, Political and Civil Rights in the United States, 391–93 (3d ed. 1967).

The Court has also decided a number of cases emphasizing that the first amendment protects privacy of political association, such as *NAACP* v. *Alabama*, 357 U.S. 449 (1958); *Bates* v. *City of Little Rock*, 361 U.S. 516 (1960); *Gibson* v. *Florida Legislative Investigating Committee*, 372 U.S. 539 (1963); and *Sweezy* v. *New Hampshire*, 354 U.S. 234 (1957).

There are, however, cases suggesting that a false friend, who claims to be sympathetic to the aims of a group and thereby gains access to information about its members, is not precluded from giving this information to the Government. See, for example, *Hoffa* v. *United States*, 385 U.S. 293 (1966).

I suggest that the first amendment interest in freedom of political association creates a legitimate expectation of political privacy which forbids extension of the *Hoffa* rationale to justify use of political informers and infiltrators. See, "Forward: Waiver of Constitutional Rights: Disquiet in the Citadel," Michael E. Tigar, Harvard Law Review, vol. 84, No. 1, Nov. 1970, at pp. 12–16.

Parenthetically, I say these things based upon some bitter experience. In a case called *United States* v. *Marshall* that I litigated in Seattle, the Government's chief witness, Red Parker, while working as an undercover agent for the FBI, infiltrated the local SDS chapter. While on the FBI payroll, he bought narcotics to distribute to young people, trained undergraduates in the use of sophisticated weapons, and in the demonstration at the Federal building for which my clients were charged, he bought and paid for with Government money a case of spray paint cans with which to paint slogans on the Federal courthouse in Seattle.

As I look at the activities of Red Parker and countless others like him, who report to the FBI and other police agencies, I can see that dossier building has given way to data banking. You will not clean out this Augean stable with a garden hose.

Yet, you must act. Justice Robert Jackson came home from the Nuremberg war crimes tribunal and said this about unlawful search, seizure and surveillance:

> Among deprivations of rights, none is so effective in cowing a population, crushing the spirit of the individual and putting terror into every heart. Uncontrolled search and seizure is one of the first and most effective weapons in the arsenal of every arbitrary government.

What should you do? First, I suggest modify the Omnibus Crime Control and Safe Streets Act to curb wiretapping and the use of grand juries as means to punish dissent. This House was told that the act was a major weapon in the fight against violence and organized crime. In the hands of the internal security lawyers of the Justice Department, it has been used to witch hunt.

But that would be only a meager beginning. Now, there are those who urge you to go a letter further and let the FBI clean itself up under new leadership. That amounts to putting the chicken thieves in charge of the henhouse.

There are those who urge that the files gathered over the years of snoopery be destroyed. Such a course would make it impossible for the victims of illegality to demonstrate that they had been harmed.

Nor do I believe that the exclusionary rule standing by itself, which operates only in criminal cases, is a sufficient remedy. It does not protect the dissenter who is spied upon, but upon whom the FBI never develops enough information to prosecute.

How, then, to begin to mitigate the harm done by the pattern of illegal, freedom-destroying conduct the committee has uncovered, while continuing to probe its nature and extent and yet take account of situations which you cannot claim to foresee?

If you come home and find a skunk in the living room, the first thing to do is open the windows. Let the Congress amend the Freedom of Information Act, to give every citizen the right to reclaim the fruits of snoopery of which he or she has been a victim.

Second, let the Congress amend the Federal rules of evidence. You did it last August and you can do it again, and you can amend the Federal rules of civil procedure to provide that, when unlawful surveillance is challenged, the Government cannot draw the curtain by invoking "executive privilege" or "official information privilege." That would merely restate a rule which began in *United States* v. *Burr* and continued up to Professor Wigmore's treatise on evidence in 1940.

Third, let the Congress provide that in suits challenging illegal surveillance, and seeking damages, injunction or declaratory judgment, a prevailing plaintiff must be awarded a reasonable attorney's fee as an incentive to bring those suits and find out what has been happening.

Fourth, let your legislative program include provisions encouraging private plaintiffs to sue, for themselves and as representatives of a class.

These proposals are so modest that I almost hesitated to put them forth. They are surely not a final answer. They only provide a mechanism to continue the great work this committee has begun, and incentives to see it continued by those most interested—the victims of these practices.

Would these proposals, enacted into law, force the FBI, the Justice Department, and other agencies to deploy people and resources? Of course. Would we see a series of embarrassing disclosures, each more sharply incriminatory of our Government than the last? Quite possibly. Would this House then be moved to enact legislation to control the abuses revealed? I devoutly hope so. Have the snoopers any legi-

timate ground to complain of such a course of events? I think not; rather, they might take for themselves the poet's *mea culpa*:

> "The thorns which I have reap'd are of the tree
> I planted: they have torn me, and I bleed;
> I should have known what fruit would spring
> from such a seed."

Mr. DELLUMS. I thank the gentleman very much. It is apparent to the Chair that there is divergence among the panelists. Before we go to my distinguished colleague, Mr. McClory, I would like to provide an opportunity for each of the panelists to comment on the other's presentation. We will begin with Mr. Pollak.

Mr. POLLAK. Thank you very much. At this point, I would simply like to raise one question with respect to one aspect of my colleague, Mr. Lambie's, testimony. He spoke at length, and eloquently, about the importance of leaving unrestrained by any requirement of a judicial warrant the executive authority to wiretap in cases of national security which had some, at least, asserted connection with foreign relations and, broadly speaking, military affairs.

At least I so understood him, and I believe it was Mr. Lambie's view that not only was this of extreme importance but that the course of judicial authority thus far was supportive of this exception to the otherwise very vigorous fourth amendment tradition.

Now, I believe it to be true that there are certainly no authoritative decisions which assert the unconstitutionality of warrantless wiretapping in this area. And it is certainly true that in the *Keith* case to which Mr. Lambie referred—*United States* v. *United States District Court*, 407 U.S.—the Supreme Court expressly reserved that issue, but I think the committee's record would be incomplete if it were left with the impression that there was essentially no contrary view.

I would call the committee's attention to the observations—which are concededly only dicta, but I think they are pertinent observations in this context—of the Court of Appeals for the District of Columbia, sitting en banc in the case of *Zweibon* v. *Mitchell*, decided on June 23, 1975. I dare say it has now been reported more formally but the only reference I have to it is in 44 Law Week at pages 2010 to 2011.

In that case the court of appeals found that it had no need to reach the issue left open in the *Keith* case. That case was one in which suit was brought by plaintiffs who alleged warrantless surveillance of their telephone conversations by agents of the Federal Bureau of Investigation, and they brought suit against the former Attorney General, Mr. Mitchell, and certain agents, and that suit was predicated both on the fourth amendment and on title 3 of the Omnibus Crime Control Act of 1968.

The court of appeals concluded that, all things considered, the plaintiffs in this case were the objects of, if you will, domestic rather than foreign surveillance, but to come to that conclusion the court had to walk a rather complicated path of interpretation of the facts.

The complexity of that interpretative process underscores the difficulty of telling a difference, and indeed a constitutional difference, between domestic and foreign national security issues.

However that may be, what I want to point out to the committee is the following language from the Court of Appeals for the District

of Columbia. "Although we believe that an analysis of the policies implicated by foreign security surveillance indicate that absent exigent circumstances all warrantless electronic surveillance is unreasonable and therefore unconstitutional, our holding need not sweep that broadly."

I suggest that this considered expression of belief by the Court of Appeals for the District of Columbia suggests the very, very strong constitutional imperative which would lead to the conclusion that the fourth amendment applies to all activities of the Government of the United States.

Now, I say no more than that that is dictum. I certainly don't want to assert that Mr. Lambie is wrong in saying that the larger currents of judicial utterance, to the extent that we have it, at least still insist on that issue being open.

Having made the legal point, let me simply add, Mr. Chairman, that I, with all respect to Mr. Lambie—and he has put the case as effectively as I have ever heard it—find myself totally unpersuaded that there are any reasons of a dispositive practical nature why the Government of the United States ever needs to undertake surveillance without getting a warrant from a Federal judge appointed under article III of the Constitution.

I would suggest, Mr. Chairman, that Mr. Justice Powell's opinion in the *Keith* case disposes completely of the argument there so strongly made on behalf of Attorney General Mitchell—who was ultimately to be the principal defendant in this *Zweibon* case to which I have just referred—the argument made on behalf of Attorney General Mitchell and President Nixon that the President had inherent authority for warrantless surveillance, domestic or foreign, whenever the President and the Attorney General were persuaded that national security was involved.

Mr. Justice Powell—I am paraphrasing, not quoting: I don't have the opinion before me—in effect said for the Court that the notion that the issues which would require surveillance or a search were beyond the comprehension and prompt disposition of Federal judges was a notion which suggested not that the judges were incompetent to hear and determine whether a warrant should issue, but rather that the Government's case for the issuance of a warrant in a number of instances might fall short of being persuasive.

Of course Mr. Lambie is right that the situations in which national security is genuinely involved are not only small in number, but are also highly complex, and that they tend to arise very quickly and require decision promptly. But Federal judges are there and exercising their authority at all times. That, I would remind this committee, is what habeas corpus is all about. A Federal judge can be reached at any moment a President and Attorney General thinks that national security really requires surveillance; and if the case cannot be persuasively put to a Federal judge that action of the kind that a President and Attorney General thinks is necessary is, in fact, necessary, then I think the meaning of the Constitution is that a warrant should not issue and that the proposed surveillance should not take place.

With all respect to Mr. Lambie, the notion that Federal judges and their small staffs cannot be trusted with information of high con-

fidentiality, seems to me a notion that almost needn't be dignified by refutation.

I think that the record of the Federal judiciary in keeping its own confidence hardly needs defense.

Mr. DELLUMS. Thank you very much, Mr. Pollak.

Given time constraints I was wondering if the other two panelists would comment briefly—although I realize, Mr. Lambie, you have been ignored this afternoon but I will give you an opportunity to respond and will recognize you at this point for a response to the statement of Mr. Pollak.

Mr. LAMBIE. I think it is obvious that we have reached a level of disagreement as to the desirability of using certain investigative techniques or the desirability or lack of desirability in engaging in any investigative process at all. I think that we have defined our differences sharply enough for the committee.

In the frame of reference of electronic surveillance, for instance, I would not suggest for an instant that authorities are unanimous in their view. Indeed, I have seen little unanimity on any question in the Federal judiciary.

I have, in recent years, considered it something of a blessing for the criminal justice system that the Supreme Court of the United States has not seen fit to adopt all the decisions of opinions of the District of Columbia circuit.

In any event, I would urge again that there is a clear constitutional issue involved in the authority of the President to act in national security matters.

It is an authority that is adequately covered by the system of checks and balances in requiring the opportunity for judicial review of arbitrary or capricious acts taken by the Executive in that regard.

I think, furthermore, that it is unrealistic to assume that the investigative agencies involved in these areas have enough time and manpower and have such a lack of other things to do that they spend their time and use their resources in situations that they don't consider serious.

It is absolutely ridiculous to assume that the FBI or any other law enforcement agency conducts investigations of a frivolous nature at a time when everybody in the Bureau has much too much work to do already.

The Bureau is not that badly administered and the agents themselves are sufficiently self-disciplined so that they don't go off and find frivolous cases.

It is a suggestion that has been implicit in so much that I have heard in this context that it really bothers me and it goes right to the most practical issue—that is the issue of how every agency and every individual allots his time.

I think, perhaps, one of the most concise and most profound statements I have ever heard in this area arose from an incident that occurred in Mr. McClory's district. It came to light several years ago when a Senate committee was conducting hearings involving an Army intelligence unit that had gathered so-called political data in the Chicago area. It was an Army intelligence unit that was remarkable for its ineptitude if nothing else.

But among the allegations was one that the Army intelligence unit had covered a picnic held at the Adlai Stevenson farm at Libertyville and that one of those under surveillance was the mayor of the city of Chicago, Mr. Daley. As you may be aware, Mr. Daley meets with the press every day, an exercise which I think he enjoys. And, obviously, the next morning at his meeting with the press, one of the early questions was how he reacted, how he felt about being the subject of intelligence gathering and surveillance by an Army intelligence unit.

The mayor smiled at the assembled press and he said, "Well, ladies and gentlemen, every one of us who is in public life is under daily and constant scrutiny by everyone, by every segment of society, all the public," and then he said—and this is the one direct quote that I remember—he said, "If you haven't done anything wrong you don't have anything to worry about." And I will leave it there.

Mr. DELLUMS. Mr. Tigar?

Mr. TIGAR. Briefly, Mr. Chairman, I will let the record respond to the characterization of the FBI. I only say that with the centuries of the world piled so high, I would have thought we understood what happens when you give unchecked power to the executive branch of any government, anywhere, any time. Make no mistake as to the enormity of what has been proposed, and quite ably so, by Mr. Lambie.

The power reposed in the Executive under the constitutional heading of foreign affairs to conduct surveillance within the borders of the United States is by definition and by a consistent course of Federal decision, once you so characterize the power, unreviewable, either prior to its exercise or thereafter.

Now, haven't we learned enough in the last 18 months of our Nation's history never to put that kind of power in the hands of any part of the executive branch of Government? That is my response.

Mr. DELLUMS. I thank the gentleman.

We will now proceed under the 5-minute rule.

Mr. McClory?

Mr. MCCLORY. Mr. Chairman, I don't know whether I am going to ask any questions because we have had both a rather elaborate series of statements and comments on the respective statements.

I think, perhaps, we have to reach some kind of balance here. In my opinion, the suggestion that the whole institution should be eliminated would certainly hamper law enforcement. I know I worked on the 1968–69 Omnibus Crime bill and we went into the subject of the wiretaps very carefully, and we did restrict them sharply. I don't think that we can leave the authority for wiretapping with respect to national security matters up to the courts.

I think we repose in the Executive our national security defense; and so it is in that limited area where the Executive has the authority to act, but only acts after consultation and approval by the Attorney General. That is a precaution that we placed on it.

More than one individual is involved. It is not a single arbitrary action. The fact is that there have been abuses in Government, abuses by the Executive—and they have gone on for a lot longer than the last 18 months. We wouldn't have a hostile Congress if we didn't have a Democratic Congress and a Republican administration. I doubt that we would have had the kind of investigation that we have had or the

exposure that we have had, so I think that there are a lot of circumstances that came to play in wrongdoing, much of which had been going on for a long time—perhaps in a more reprehensible way, in some aspects, in other administrations.

But I think you gentlemen all play an extremely important role and your recommendations are most valuable to us. I happen to have a great respect for Fred Inbau, who was pretty much the sparkplug behind this organization of Americans for Effective Law Enforcement. I don't like to regard it as an organization which would deprive anybody of any of their inherent constitutional rights. But I think it is perhaps a reaction to a kind of permissiveness and a kind of overemphasis on the rights of the accused, or the rights of the criminal, that has found a great emphasis in the court decisions and perhaps in some of our legislation. So I think they have contributed to bring the whole subject into balance.

If I were going to ask a question, it would be about the broad doctrine of immunity which we authorized in the Omnibus Crime bill. I am concerned about that. It has not worked the way we intended. We thought we were going to grant immunity to the small fry and they would enable us to get the righ moguls in organized crime.

The experience with the immunity bill has been that we have granted immunity to some of the worst culprits at the top and we have gotten convictions against some of the underlings who have been convicted on the testimony of these more dastardly criminals.

But that is a little beyond the scope of our testimony here.

I think that is the extent of my questioning, Mr. Chairman.

Mr. DELLUMS. I thank the gentleman.

Mr. Lehman.

Mr. LEHMAN. I want to apologize for not spending more time here, but the testimony was certainly inspirational and informative.

My concern is with the FBI and how to prevent the kind of abuses that seem to be coming to light now.

In the branch of our military goverment we have always appointed nonmilitary people. Civilians head the Defense Department. Even when we had two or three branches we always had a civilian head.

Do you think we should legislate or recommend that the head of the FBI should not be a policeman?

The second question I wanted to ask is about the term of the Director of the FBI. How long should he be appointed for? And should he be allowed to succeed himself?

Do you think perhaps that the length of time should be limited and it should be written into the law? Or should we come out with a committee report recommending that the FBI Director not be reappointed after a certain number of years?

I guess these are the two questions that I am concerned about. We have been lucky in this country that we haven't gotten ourselves into a box of authoritarianism, and I think it is a credit to the character of the people of this country and to its ability to choose its leaders that has prevented this kind of a situation—but we might not always be so lucky. I think we should start looking at the kind of precautions we should take.

So the two questions are: What kind of a limitation should there basically be on who can be appointed, for how long, and what consideration should we have in appointing the head of the FBI?

Mr. LAMBIE. I will start off.

Mr. LEHMAN. I don't even know what the limitations are now. Maybe you do.

Mr. LAMBIE. I am speaking now as an exagent. I have not been in the Bureau for a long time, and certainly I am not here to defend the Bureau because it can do that for itself far better than I can. But I will say this——

Mr. LEHMAN. They have been lucky so far.

Mr. LAMBIE. Yes, partly. But they have been lucky because the personnel requirements have been of extremely high caliber, and I think the leadership has been superb and is superb today.

I don't see that anything is gained by restricting the experience or expertise of the individual who is to be named Director, whoever he may be. The Bureau has had one acting director or two acting directors who had no law enforcement background. I may be highly prejudiced, but I happen to think that the current Director, who has had a great deal of law enforcement background, was the best man for the job. And I think some of recent history has tended to indicate that.

My understanding is that the Director is now appointed by the President subject to the advice and consent of the Senate. Historically, like other Presidential appointees, the Director has submitted a letter of resignation to the incoming President, and in Mr. Hoover's case he was reappointed by succeeding Presidents and I assume that the same situation would prevail as to Mr. Kelley, unless Congress chooses to make him director for a fixed term. I think Mr. Kelley—if he has not told this committee, I know he has told other committees, that he has no objection to the Director being appointed for a fixed term and on the condition that he can not succeed himself.

He has suggested at least once that the term be as long as 9 years, so that a Director appointed by one President will not be subject to reappointment or that a new Director will not be subject to appointment by the same President. His argument on that is simply to remove the office of Director of the FBI from any possible political appointment system.

Obviously political considerations are going to be involved as in any Presidential appointment, but that is his theory. My understanding is that he has no objection at all to a 9-year appointment, and I don't know of anybody else who does. I think it might be a very wise thing for the Congress to consider.

Mr. DELLUMS. The time of the gentleman has expired. I would like to ask Mr. Tigar, given your extensive experience in the area of wiretapping, this question:

We have developed some documentation recently—that is within the last day or so—in preparation for these particular hearings, and I would like to get you to comment on this factual situation:

We have documentation that Secretary Kissinger on May 9, 1969, made four telephone calls from Key Biscayne, Fla., to the then Director of the FBI, Mr. Hoover. He had extensive conversations with respect to leaks of security information.

On that same day—May 9, 1969—a gentleman whose name I am not at liberty to reveal, had a wiretap instituted on him. That was the same day of the four phone calls from Mr. Kissinger to Mr. Hoover regarding security leaks.

However, the request for the tap on this person's phone by Col. Alexander Haig was not made until May 19, 1969, and the wiretap was not approved by the then Attorney General, John Mitchell, until May 12, 1969.

To summarize, there were four telephone calls from Mr. Kissinger to Mr. Hoover with respect to security leaks. On May 9, a tap was instituted on this gentleman. On May 10, Mr. Haig made a request. On May 12, the request was approved. However, the tap had been running since the 9th. In your considered opinion, both as a scholar and as a practicing attorney, would you consider this an illegal, warrantless wiretap?

Mr. TIGAR. Yes, Mr. Congressman, I would. I begin by observing that the practice of Bureau wiretaps without explicit authorization from the Attorney General, let alone from the President of the United States, is nothing new. A spate of such occurrences began in February 1961, as the record of civil suits in Las Vegas, Nev., and elsewhere tend to show.

I think the Supreme Court of the United States, in *United States* v. *United States District Court*, 407 U.S. 297 (1972) decided the question you pose. The court held that neither the President of the United States nor the Attorney General nor the Director of the FBI—indeed no one in the executive branch—has any power to conduct warrantless electronic surveillance with respect to domestic political organizations or in respect of activities not connected with a foreign power.

The court made that decision upon the basis of a consistent course of American constitutional doctrine concerning the fourth amendment, to some of which I adverted at the beginning of my remarks.

Secretary Kissinger's call to Director Hoover was nothing more or less than a statement of a person who may or may not have been in a position to know that a Federal crime was perhaps being committed. The FBI was thus engaged in law enforcement type activity, looking—if its activity had any legitimate basis—toward some prosecution at some future time. Nothing in *United States* v. *United States District Court* suggests to me that that tap is other than one that requires prior judicial authorization.

If it be said that Secretary Kissinger was worried in some abstract sense about compromises of the national security of the United States with respect to some foreign relations activities, it seems to me that the history of that episode, as you have described it and as it has appeared elsewhere, belies that contention that such was the primary purpose of the activity.

Mr. DELLUMS. I thank the gentleman. I have one additional question. I think the panelists have all spoken clearly to the issues and answered most of our questions.

I would like to ask Mr. Lambie: You point out a need to maintain a strong law enforcement capability and that there have been numerous efforts to weaken that process. However, I think you will agree with me that over the past 10, 15, or 20 years there have not been these restrictions and the crime that you alluded to continues to go forward.

Crime as to definition is not absolute. It would seem to me that the definition of what is a crime is not stagnant. During the late 1950's and early 1960's black people demonstrating for their civil rights were often considered criminal. Young students and antiwar people who

challenged the policies of the United States vis-a-vis Vietnam were considered criminals. We have an ability to define criminality in a very subjective way.

My question to you is this:

If our law enforcement agents pursued drug addiction and organized crime, even into the highest levels of Government, as vigorously as they pursued civil rights leaders, as vigorously as they pursued antiwar demonstrators, could not the issue of crime control in the significant areas that you alluded to in your paper be dealt with effectively? The wiretaps, the mail covers, the mail openings, the invasion of privacy have been on those persons who have demonstrated their rights under the first and fourth amendments to the Constitution.

But through the 1960's and early 1970's we defined these persons as criminals, the Government did, the FBI did, and they moved on these persons to the exclusion of the crime that you allude to. What I am suggesting to you is that if more energy had gone into those significant areas maybe we would have had a greater impact on reducing crime. I would like you to comment on that.

Mr. LAMBIE. I will be happy to. The one part of your statement with which I agree completely is the statement as to the nature of crime itself and its changing definitions. Obviously the Congress can define crime as it wishes and certainly the courts take differing interpretations as to criminal acts as time goes on. I find nothing wrong with that.

I completely disagree with the premise on which your question is based—that is to say that crime has escalated during a period in which there has been little or no restriction on law enforcement activity.

I would argue very strongly that there has been tremendous restriction on law enforcement activity over the last 15 years. It has largely been a product of the case law. It is new and it is innovative. It is unknown to the common law. You talk to British and Canadian lawyers about the exclusionary rule, for example, and they are horrified. There is no such thing in the common law.

I would disagree as well with the implication that either Federal or local agencies neglect their approaches to more traditional crimes, to things such as narcotics violations, by virtue of being interested in what we have talked about as political crimes—whether we call them crimes today or whether they were or were not crimes 10 years ago.

The FBI uses less than 20 percent of its total manpower commitments in domestic or national security cases. All the rest of its people are devoted to the more usual criminal fields except now for some 196 people who are involved in administering the Freedom of Information Act for which the Bureau still has no budget.

But police agencies spend almost all their time in the traditional crime-fighting field. They don't spend an awful lot of time and effort in these areas. Certainly they spend the time that is required. Obviously, the local police agencies gather intelligence about demonstrations. People sometimes have laughed and snickered and said, "Well, they are using, as an excuse, the fact they have to control traffic, but that is only an excuse." That is not an excuse. It is a legitimate need. It is not an excuse to say that the police have to know the potential for violence involved in a demonstration, either in Washington or Chicago or Keokuk, Iowa, or anyplace else.

They must collect information in advance if they are going to perform their duties. But we are not going to change the crime rate numbers at all by taking away from the police the power to collect intelligence data and then adding a few officers to drug enforcement at the local level or other kinds of enforcement.

We are not going to change the numbers that way. Indeed if we try to change the numbers by that simplistic device we will wind up exposing ourselves to considerable danger on the other side of the score. I grant you, certainly there have been abuses. All of us recognize that there have been. But I don't think that we correct those abuses by creating new ones.

Mr. DELLUMS. Thank you very much. Mr. Field, do you have any questions?

Mr. FIELD. Mr. Chairman, I have one request: I would like the Chair's permission to include in the record the memorandum from the Department of Justice on the 17 so-called Kissinger wiretaps, which were declassified today for the committee in preparation for this hearing, and to which you referred in your questioning.

Mr. DELLUMS. Without objection, it is so ordered.

[The materials referred to are printed on pp. 1205–1220 of the appendixes.]

Mr. LEHMAN. I don't object.

Mr. POLLAK. Mr. Chairman, might I be permitted 30 seconds to comment very briefly on one thing I think was at least implicit in Mr. Lambie's remarks?

In his colloquy with you, he referred to the exclusionary rule in a way which seemed to suggest that he saw that as a part of the apparatus restricting law enforcement that was new and put law enforcement officers under a kind of handicap which somehow correlated with the recent rise of crime. This is in counterdistinction to the suggestions which you were making, Congressman Dellums, which seem to me, with all respect, very inciteful with respect to our crime problem.

I simply want to comment on the references to the exclusionary rule. To the extent that it has not been a feature of common law jurisdictions, England most especially, that may correlate substantially with the fact that lawless searches and seizures have not been as clear a characteristic of law enforcement practices in those jurisdictions.

However that may be, the record here should be clear that the understanding that the exclusionary rule is a corollary of the fourth amendment has been a feature of our national law—that is, binding on national law enforcement agencies including the Federal Bureau of Investigation—not for just the past few years but for at least half a century since the decision in the *Weeks* case. If one examines the record of the FBI with respect to its main function of conventional national law enforcement through the last 50 years, I think it should be said on the Bureau's behalf that on the whole the Bureau has behaved quite scrupulously in observance of those rules which flow from the fourth amendment.

Lawless searches and seizures were far more characteristic of local law enforcement instrumentalities than their national counterparts until 15 years ago when the Supreme Court of the United States held that the exclusionary rule applied to State and municipal, as well as to national, law enforcement agencies.

But I think it clear on this record that the kinds of abuses, such as warrantless searches and warrantless surveillances, that we are concentrating on here largely relate to a fairly special and defined area of law enforcement—namely, that which addresses itself to the, if you will, "political" realm, often called the "national security" realm—that this committee's hearings have been largely addressed to. It is largely speaking in those areas that the Bureau—overall with a good record, I would say—has fallen short of fourth amendment standards.

Any kind of suggestion that somehow the exclusionary rule is implicated in the rise of crime just seems to me to skew our perspectives about where our constitutional values stand and basically what our history has been over the last century.

Mr. DELLUMS. Mr. Pollak, I thank you very much. Mr. Tigar and Mr. Lambie, I thank you also for your thoughtful presentations.

This committee stands in recess until 10 o'clock tomorrow morning.

[Whereupon, at 4:43 p.m., the committee recessed.]

APPENDIXES

APPENDIX I.—STAFF ANALYSIS: FORMER FBI PERSONNEL EMPLOYED BY A.T. & T. AS OF OCTOBER 9, 1975

Exhibit

Analysis of AT&T Data concerning Bell system employees with former law enforcement experience.

Total Bell System Security Personnel -- 656

Total Security Personnel with prior FBI experience -- 45

Total Security Personnel with prior "local" experience --31

Total Security Personnel with prior "state" experience" --18

Percent of individuals with prior FBI experience in Security Personnel of the Bell System -- 6.8%

Attached are further analyses of this data.

Note: In Southwestern Bell 40% of the Security Personnel have prior law enforcement experience with the FBI.

ANALYSIS OF AT&T DATA

TOTAL SECURITY PERSONNEL ------	656
TOTAL FBI EXPERIENCE ------	45
TOTAL "LOCAL EXPERIENCE ------	31
TOTAL "STATE" EXPERIENCE ------	18
PERCENT FBI AGENTS IN SECURITY PERSONNEL	6.8%

LOCATION	TOTAL NUMBER OF AGENTS	TOTAL NUMBER FORMER FBI	PERCENT IN LOCATION
Corporate Security (NY)	6	1	16%
Penn Bell; Diamond State Telephone	49	1	2%
Bell Telephone Lab.	4	1	25%
C&P - D.C., WVA, VA. Md.	30	1	3.3%
New England Telephone	30	3	10%
Northwestern Bell	23	1	4.3%
Pacific Northwest Bell	18	1	5.5%
Pacific Telephone, Nevada Bell	100	2	2%
South Central	39	3	7.6%
Southern Bell	54	14	25.9%
Southwestern Bell	40	16	40%
Western Electric	12	1	8.3%

APPENDIX II.—FBI'S NOVEMBER 28, 1975 REPLIES TO QUESTIONS RAISED AT NOVEMBER 18, 1975, HEARING

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

62-116464

November 28, 1975

U. S. HOUSE SELECT COMMITTEE
ON INTELLIGENCE ACTIVITIES (HSC)

Reference is made to the hearings held on November 18, 1975, before the U. S. House Select Committee on Intelligence Activities (HSC) at which testimony was given by James B. Adams, Assistant to the Director-Deputy Associate Director, Federal Bureau of Investigation (FBI); W. Raymond Wannall, Assistant Director, Intelligence Division, FBI; and other FBI representatives. The information set forth below is in response to specific questions raised during the hearings.

One aspect of the hearings dealt with the FBI's investigative interest in the Institute for Policy Studies (IPS). You asked Mr. Adams if a phone call from your Administrative Assistant to IPS was intercepted and recorded by the FBI. You specifically referred to information attributed to a source, WF T-4, which appeared in a document labeled WFO 100-46784.

From a review of our file, it was determined the symbol, WF T-4, was used in this instance to designate a one-time retrieval of some IPS trash abandoned by a trash truck at a Washington, D. C., sanitary dump on August 23, 1972. The recovered trash included carbon typewriter ribbons, from which information was subsequently transcribed. The actual transcription from one ribbon read as follows:

"Mrs. Woolbert of Congressman Pike's office was asked by Byron Johnson to call you. He is running for the 5th Congressional District of Congress. He wonders if you will be willing to go around and round up a group of liberal, anti-war folks for the evening of August 6-12th. She expects you to call her when you get back."

The above-quoted note was on a portion of a typewriter ribbon between other material dated July 26, 1972, typed by Marcus Raskin's secretary.

U. S. House Select Committee on Intelligence Activities (HSC)

You requested information concerning attacks by the IPS on the FBI mentioned in the document labeled WFO 100-46784.

Information responsive to your inquiry is contained in pages 2 through 8 of the report of our Washington Field Office entitled "Institute for Policy Studies, 1520 New Hampshire Avenue, N.W., Washington, D. C.; IS - REVACT," dated March 15, 1973. A copy of this report was furnished to the HSC by letter dated November 14, 1975. As the information is already available to you and is classified "Confidential," it is not being submitted herewith for inclusion in the public record.

Congressman Dellums inquired as to the FBI's basis for the investigation of the IPS. He asked if the FBI's investigative interest in IPS was based on an association between IPS and "Ramparts" magazine, rather than to determine the degree of association between IPS and the Students for a Democratic Society (SDS).

An investigation of IPS was initiated on June 20, 1968, by the Washington Field Office of the FBI based upon information set forth in a communication dated June 19, 1968, from the New York Office of the FBI. This communication, captioned "Students for a Democratic Society (SDS)," contained information from a source who had furnished reliable information in the past that on May 27, 1968, Arthur I. Waskow of IPS, Washington, D. C., had contacted Jeff Jones of the New York Regional Office of SDS. Waskow reportedly advised Jones that his name had been included among 50 young, intelligent, leftist militants recommended to attend a three-day meeting of the Foreign Policy Association (FPA) at the New York Hilton Hotel, New York City, on May 27-29, 1968.

The source expected members of SDS to attend and possibly attempt to dominate the meetings.

The investigation of IPS was initiated to determine its association with SDS and what, if any, influence the New Left, of which SDS was an integral part, had on the FPA.

Later in October of 1968, the Baltimore FBI Office reported information relating to a 1968 trip to Cuba by SDS members. "Ramparts" magazine was preparing an article, with some apparent cooperation from IPS, on this trip by SDS members. Consequently, FBI Headquarters sent instructions on November 1, 1968, to appropriate field offices to determine if there was a relationship between "Ramparts" and IPS, inasmuch as both had demonstrated an interest in SDS.

In response to the inquiry of Congressman McClory, there are currently 110 members of the Socialist Workers Party (SWP) on the Administrative Index (ADEX).

In discussing the FBI inquiry concerning Lori Paton, Congressman Johnson asked when the inquiry stopped and how long it took to establish that Miss Paton was a high school student. At subsequent points both you and Congressman Kasten made similar inquiries regarding this matter.

Miss Paton first came to the attention of the FBI in mid-February, 1973, when her name and address were obtained from a legal mail cover on the headquarters of the SWP, New York City. This information was forwarded by letter dated February 28, 1973, to our Newark Office for the purpose of identifying her and determining whether any further inquiry was warranted. The Newark Office reviewed its indices and contacted established confidential sources in an effort to determine the reason for her contact with the SWP. These inquiries proved negative. On March 22, 1973, Newark opened an individual case on Miss Paton and requested a further inquiry at Chester, New Jersey, to determine her identity and whether she was involved in subversive activities. On March 28, 1973, inquiries were made by our Resident Agent at Chester, New Jersey, with the local credit bureau and the Chief of Police, which indicated Miss Paton had probably graduated from the local high school. Later on this same date, our Resident Agent contacted the principal and vice principal at the high school and determined that she was in fact still a student there and had probably contacted the SWP in regard to one of her school courses. No further inquiries were made regarding Miss Paton. The Resident Agent, in the normal course of his

business, dictated and forwarded to his Newark headquarters the results of his inquiry in a memorandum dated April 2, 1973. The Newark case Agent routinely reviewed the information from the Chester Resident Agent, recommended closing, and on May 7, 1973, the case was officially closed.

The above information concerning Miss Paton is furnished for inclusion in the transcript of the hearings concerning FBI surveillance activities, November 18, 1975, at line 19, page 4165.

It is requested that all of the above information be made a part of the official record of the November 18, 1975, hearings.

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

November 28, 1975

RE: CONTACTS BETWEEN WEATHERMAN AND THE INSTITUTE FOR POLICY STUDIES (IPS)

The following is submitted in response to a request of Congressman Dellums for information in the files of the FBI which shows contacts between the IPS and Weatherman, the information to be inserted at line 25, page 4286, of the transcript of the hearings concerning FBI surveillance activities, November 18, 1975.

Information was furnished to the New York Office of the FBI, in May, 1968, showing a contact between Arthur Waskow of IPS and Jeff Jones of the New York Regional Office of the Students for a Democratic Society (SDS). Jones was then a leader of the SDS and is currently a fugitive from justice being sought by the FBI for Unlawful Flight to Avoid Prosecution - Aggravated Battery and Bail Jumping, as a result of his participation in the "Days of Rage" on the part of the Weatherman at Chicago, Illinois, October, 1969. Jones is also a leader of the Weather Underground Organization (WUO) by which name the Weatherman is now known.

On August 13, 1969, a source who has furnished reliable information in the past, advised that on the afternoon of August 12, 1969, William Charles Ayers, a leader of the Weatherman operating out of Chicago, Illinois, was in Washington, D. C., for the purpose of soliciting money. The amount of money being sought and the reason for such is not known at this time, nor was it determined at that time. Ayers reportedly obtained money from Arthur Waskow of the IPS, Washington, D. C. This same source advised that after Ayers obtained the money, he left Washington, D. C., on the same night, destined for Chicago, Illinois. This same source also advised that Ayers was scheduled to meet on August 14, 1969, with Bobby Seale of the Black Panther Party (BPP). The source advised the purpose of the meeting concerned the relationship between Weatherman and the BPP.

APPENDIX III.—FBI RESPONSES TO STATEMENTS MADE BY NONBUREAU WITNESSES DURING NOVEMBER 18, 1975, HEARING

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

November 28, 1975

RE: TESTIMONY OF ARTHUR MURTAGH BEFORE THE SELECT COMMITTEE ON INTELLIGENCE, NOVEMBER 18, 1975

Among the allegations made by Murtagh during the November 18, 1975, hearings before the HSC was that at one time he was asked to obtain through his informants handwriting samples of Andrew Young of Atlanta and other assistants of Dr. Martin Luther King in the Southern Christian Leadership Conference (SCLC), for what he believed was to be used for illegal purposes.

In 1973, the time Murtagh originally made this allegation, a check of FBI Headquarters files as well as those of the Atlanta Office of the FBI was made. A communication was directed to FBI Headquarters by the Atlanta Office on August 13, 1973, which advised that a review of files disclosed no information to support Murtagh's allegation and that personnel, who would be knowledgeable of such a request of Murtagh, had no recollection of any such request. FBI Headquarters files did not contain information which would substantiate Murtagh's allegation.

Mr. Murtagh alleged the FBI used illegal activity to compromise the "movement" and that Mr. Hoover had no sympathy with any "racial movement." Presuming that Murtagh is referring to the Civil Rights Movement, our investigations were aimed at determining the nature and extent of communist influence in the racial movement and not to deter the movement itself. The FBI promptly and vigorously handled investigations relating to Civil Rights violations and our excellent record in this area speaks for itself.

Mr. Murtagh alleged that Mr. Hoover threw a veil of secrecy over the Bureau's internal operations making it impossible for the public or Congress to know of Bureau operations.

Testimony of Arthur Murtagh before the Select Committee on Intelligence, November 18, 1975

Mr. Murtagh is well aware that annual appropriations were based on Mr. Hoover's testimony before Congressional Committees which were at liberty to examine all areas of the Bureau's operations in conducting their inquiry for budget justification. As members of Congress and representatives of the people, Committee members have always been in a position to know of the Bureau's internal as well as external operations and to make Congress and the general public aware of their observations within their prescribed mandate and subject to the rules of confidence.

Mr. Murtagh alleges that the Bureau uses harsh disciplinary measures. The standards of conduct of the FBI are based on and are in accordance with the Department of Justice Order 350-65 and the Code of Federal Regulations. Administrative action for failure to meet these known and established standards is handled promptly and fairly. No administrative action is ever taken without first obtaining an explanation from the employee involved. Disciplinary policies of the mid-1960s were no different than in previous decades and little different than at present. Mr. Murtagh's allegation that disciplinary measures had so eroded Agents' confidence in Mr. Hoover by the mid-1960s that the policy "tell the man nothing" reached the point where Bureau supervisors did not furnish Mr. Hoover with information that had come to their attention for fear of reprisal, is without factual basis, is not documented, and appears to be a matter of Murtagh's personal opinion.

Mr. Murtagh alleged Agents under Mr. Hoover had no avenue through which they could air grievances involving unethical or illegal practices. This is not true. If asked or required to take part in something illegal or unethical or outside the Agent's job description his obvious initial recourse would be to report same to the next higher supervisory authority. Since Murtagh insinuated that internal channels would not be responsive to accepting or forwarding such grievances, it must also be pointed out that Agents could always seek recourse by writing or going to higher authority, such as the Attorney General.

Testimony of Arthur Murtagh before the Select Committee on Intelligence, November 18, 1975

Mr. Murtagh alleges that the FBI has carefully selected Agent personnel who were politically disposed to the right.

The FBI is excepted from the competitive Civil Service in our employment of both Special Agents and clerical personnel. Our employees are selected based on educational qualifications, personal interviews, appropriate testing and rigid background investigations. No instructions have ever been issued to determine the political affiliation of applicants for employment with the FBI. Political affiliation or persuasion is not now and has never been a prerequisite for employment.

Additionally, Mr. Murtagh alleges that thousands of Agents have been forced to leave the Bureau in "utter disgust." This is not corroborated by the facts. Percentage comparison studies reveal that the turnover rate of Special Agents is consistently below that in the Federal Government and private industry. In the first place, large numbers of Agents have not resigned and no information has come to our attention that would in any way indicate that large numbers of Agents have resigned in "utter disgust."

He also suggests that either the salary scale for Special Agents should be reduced or that we should establish educational requirements to justify our high pay standards. The starting grade for a Special Agent in the FBI is GS-10. The U. S. Civil Service Commission has found this position to be correctly classified in grade GS-10, based on a thorough study of all pertinent background information including the educational, physical and other qualification standards for recruitment, training courses and facilities, examination of typical, practical case problems and a study of the scope of FBI jurisdiction and the numerous duties and responsibilities of Special Agent personnel. Classification standards for the criminal investigating series GS-1811 were revised in February, 1972, and information therein continues to support GS-10 as the entrance level for Special Agents.

63-165 O - 76 - 14

Testimony of Arthur Murtagh before the Select Committee on Intelligence, November 18, 1975

Mr. Murtagh recommends that to insure against re-establishment of uncontrollable power within the Bureau that Agent selection be a legislative process so that future personnel would represent the full spectrum of American society instead of only a narrow segment as it now does.

Our current Special Agent complement is made up of a cross section of Americans representing all walks of life, races and creeds. All applications received are thoroughly reviewed and treated in a like manner without regard to an individual's station in life.

Equal opportunity is, and has been, an established policy of the FBI. The Bureau has applied an unqualified policy of considering each applicant for employment without regard to race or any other discriminatory factor. Over the years we have emphasized and reemphasized not only the need but the desire to attract minority applicants to our ranks in order to be representative of the American people and fulfill our responsibilities.

In support of his allegation that the FBI practiced institutional racism in hiring, Mr. Murtagh also attributed to Mr. (James B.) Adams of the FBI a statement to the effect that Murtagh's hiring of blacks for the Bureau's work force, would have to be stopped.

Mr. Adams categorically denies having made any such statement and the FBI's record of affirmative action in recruiting black employees belies any such statement.

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

62-116464

December 2, 1975

RE: STATEMENT OF ROBERT W. HARDY
BEFORE THE HOUSE SELECT
COMMITTEE ON INTELLIGENCE
NOVEMBER 18, 1975

On Tuesday, November 18, 1975, Robert W. Hardy appeared before the House Select Committee (HSC) dealing with the subject matter of intelligence activities and made a statement concerning his performance as an informant for the FBI. In this statement, Mr. Hardy made certain allegations against the FBI which are set out below with appropriate responses.

The attached pages set out each of Mr. Hardy's allegations which are excerpts from his testimony. Each allegation is followed by a refutation. Except where specifically noted, these responses to Mr. Hardy's allegations are excerpted from the FBI report of Special Agent Michael M. Ryman at Philadelphia dated November 18, 1971, entitled, "Camden Action; Jayma Ann Abdoo; Et Al." This report is a chronological compilation of debriefings prepared following the daily meetings of Hardy with the FBI Agents assigned as his contacts. The report is attached. The refutations of Mr. Hardy's testimony are, therefore, in the main taken from his own contemporary reports to the FBI.

Enclosures (2)

[COMMITTEE NOTE.—Space limitations precluded printing the 259-page FBI rebuttal transmitted with the above memorandum. It is in the committee files.]

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

November 28, 1975

RE: TESTIMONY OF LORI PATON BEFORE THE SELECT COMMITTEE ON INTELLIGENCE, NOVEMBER 18, 1975

Regarding statements before the United States House Select Committee on Intelligence Activities (HSC) made by Lori Paton, the Federal Bureau of Investigation (FBI) would like to place the FBI's inquiry on Paton in proper perspective. It is important to note that the inquiry stemmed from the FBI's investigation of the Socialist Workers Party (SWP), the largest Trotskyist-communist party in the United States.

Paton states she was subjected to public exposure and suffered embarrassment and humiliation. While the FBI did, of course, conduct an inquiry to determine Paton's identity, the FBI did not publicize that fact. The PBI prepared no formal report on Paton and no information on her was disseminated. The FBI has maintained throughout the course of the civil action instituted by Ms. Paton that it did not cause any of the alleged notoriety and publicity following the inquiry. The United States Court of Appeals for the Third Circuit noted in its recent opinion, "It would appear that a factfinder could conclude from this record that the investigation first became publicized through the efforts of Gabrielson." Mr. Gabrielson was the chairman of the high school's social studies department but was not the teacher of the class for which Paton wrote her letter to the SWP.

Paton said she felt she should have been contacted by the Agent. This was not possible until she was identified. Once she was identified and the purpose of her contact with the SWP was known, there no longer existed any reason to contact her. The reason for her contact with the SWP became known during the investigation. It was concluded that she was not involved in subversive activities, and her case was closed.

Testimony of Lori Paton before the Select Committee on Intelligence, November 18, 1975

She states she was concerned about the Government keeping a record on her as she might some day seek Government employment. She then filed suit to find out why she had been investigated and to have her file destroyed. The Government argued that her file was an accurate record of a lawful inquiry, and thus the FBI was prohibited by Federal laws from destroying her file. This matter is still in litigation.

Regarding Paton's attorney's request, on June 13, 1973, a letter was directed to the Special Agent in Charge (SAC), Newark Office, FBI, with copies to the Acting Director, FBI and the Attorney General by Frank Askin, utilizing the letterhead of Rutgers University, School of Law, Constitutional Litigation Clinic, Newark, New Jersey. In this letter, Askin stated he was making inquiry on behalf of Ms. Lori Paton and William Gabrielson, Chairman of the Social Studies Department, Mendham High School. He said the inquiry was prompted by a letter sent by Ms. Paton to the Socialist Labor Party in New York, seeking information for a school project. He also said that she and her family were concerned over the fact that this letter could prompt an FBI investigation. He demanded to receive an answer from the SAC, Newark, to the following questions within five days, threatening to take further action if a satisfactory answer was not received by June 20, 1973.

"1. How did the FBI learn of Ms. Paton's letter to the Socialist Labor Party?

2. Does the FBI maintain a general policy of surveillance of correspondence with the Socialist Labor Party and other minority political groups? Are all such correspondents investigated? If not, why was Ms. Paton selected for investigation?

3. Under what circumstances will correspondence with a political party inspire an FBI investigation? (Mr. Gabrielson needs this information so he can advise students when such correspondence might cause them to be investigated.)

Testimony of Lori Paton before the Select Committee on Intelligence, November 18, 1975

4. What records or notations have been made in the Bureau's files regarding Ms. Paton, Mr. Gabrielson or any other person connected with Mendham High School as a result of this incident and investigation? What reports were filed in regard to this matter and to whom were copies transmitted?"

On July 16, 1973, Mr. Askin received his response over Mr. LaPrade's signature. It is noted Mr. LaPrade is not the Director of the FBI, but at that time was the SAC of the Newark Office of the FBI. The contents of that response are a part of current litigation and further comment is inappropriate at this time.

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

November 28, 1975

RE: STATEMENT OF PETER CAMEJO BEFORE THE HOUSE SELECT COMMITTEE ON INTELLIGENCE, NOVEMBER 18, 1975

Peter Camejo, as the Presidential candidate of the Socialist Workers Party (SWP), testified that his organization has been victimized by FBI and Central Intelligence Agency (CIA) activities since 1945. He briefly explained the nature of the SWP and its position on election campaigns, advocacy of violence, and foreign influence. Numerous references were made by Camejo and others to 30 years of investigation of the SWP by the FBI. Since the SWP was founded only 37 years ago in 1938, a desire to avoid discussion of the early years of the SWP was apparent and ignored the fact that 18 members of the SWP were convicted 32 years ago for violations of Federal statutes dealing with conspiracy to advocate the overthrow of the Government of the United States and to advocate insubordination in its armed forces.

In Dunne v. United States, 138 F 2d 137 (1943), the Eighth Circuit Court of Appeals considered statements of the SWP on the same topics that were discussed by Camejo. Of particular significance to the court was the Declaration of Principles and Constitution of the SWP which was adopted at its founding convention in Chicago from December 31, 1937, to January 3, 1938. The 1938 Declaration of Principles sets forth the goals of the SWP to be:

1) "The main specific task of the S.W.P. is the mobilization of the American masses for struggle against American capitalism, and for its overthrow."

2) "...take control of state power through the overthrow of the capitalist state and the transfer of sovereignty from it to their own Workers' State -- the Dictatorship of the Proletariat."

> 3) "The Workers' State is a temporary political instrument making possible the transition to the class-less, socialist society." "...The noblest objective of the human race--communism, the classless socialist society--inaugurating a new era for all of mankind, will be realized."
>
> 4) "...The revolutionary party in this country does not aim merely to lead the working class of the United States in revolution, but to unite with the workers of all other countries in the international revolution and the establishment of world socialism."

The current position of the SWP is contained in evidentiary material in FBI files. Included in this material are official SWP documents such as "The Decline of American Capitalism; Prospects for a Socialist Revolution" which was approved by the 26th National Convention of the SWP and appeared in a special issue dated November 7, 1975, of the "International Socialist Review," monthly supplement of "The Militant, " the SWP newspaper. The 1975 Prospects for a Socialist Revolution states, "The Marxist model for constructing a revolutionary program in the imperialist epoch is the founding document of the Fourth International, the world party of socialist revolution, founded by Leon Trotsky in 1938." The 1938 Declaration of Principles also includes this program.

The following is a comparison of specific portions of Camejo's testimony with other material concerning the SWP, most of which is from court decisions and official SWP documents:

AIMS AND PURPOSES

Camejo testified, "I think it is important that I briefly explain exactly who we are and what we stand for." He described the SWP as a "political party based on the working class" or as a "workers movement" and SWP members as "Marxists" or "internationalist."

Statement of Peter Camejo Before
the House Select Committee on
Intelligence, November 18, 1975

The explanation of what they stand for included, "On the question of establishing socialism, however, we are in a minority. Our goal is to win a majority to our point of view." At no point in his statement did Camejo acknowledge the SWP is a revolutionary, Trotskyist-communist organization which has as its purpose, as stated in its Declaration of Principles, the overthrow of the U. S. Government, the institution of a dictatorship of the working class, and the eventual achievement of a communist society.

In Dunne v. U. S., the court considered the Declaration of Principles and said,

> "The Declaration sets forth the program of action to effectuate this overthrow of the existing capitalist society and the Government which supports it. The first step is to build the strength of the party so that it can have a majority of the exploited classes back of its leadership. The final step is to overthrow the existing Government by force."

The 1975 Prospects for a Socialist Revolution states, "The world crisis of capitalism does not favor extensive and effective long-term capitalist reform in the United States but the development of the requisites for a revolution."

ELECTION CAMPAIGNS

Camejo states, "We think a political party based on the working class is needed. That is why we are offering candidates in the 1976 elections."

The 1938 Declaration of Principles also discusses election campaigns and says,

> "While relying primarily on mass actions, propaganda and agitation as the means for furthering its revolutionary aim, the Party will also participate in election campaigns though at all times contending against the fatal illusion that the masses can accomplish their emancipation through the ballot box."

Statement of Peter Camejo Before
the House Select Committee on
Intelligence, November 18, 1975

FOREIGN INFLUENCE

Camejo denies that the SWP is run by a foreign power or organization and states that SWP members are "internationalists" who "maintain a relationship of fraternal solidarity with the Fourth International."

The 1938 Declaration of Principles states,

> "The revolutionary party in the United States collaborates in the fullest measure with all groups, organizations and parties in all other countries standing on the same fundamental program as our own; and cooperates with them in the elaboration of a complete world program. The S.W.P., therefore, is affiliated with the Bureau for the Fourth International as its section in United States."

Camejo stated, "And although we strongly disagree with the Voorhis Act, since it was passed in 1940 we have not been affiliated to the Fourth International." In Dunne v. U. S., the court discusses an attempt to suspend and withdraw the Declaration of Principles and quotes defendant James P. Cannon (founder and leader of the SWP until his death in 1974) as follows: "The principal reason, I may say, was the passage by Congress of a bill known as the Voorhis Act, which penalized parties belonging to international organizations." The court then concluded, "Even as to the Voorhis Act, this action was merely a subterfuge and smoke screen." Another quote from Dunne v. U. S. seems particularly appropriate when considering the SWP's denial of membership in an international organization while also following Trotsky's teaching that communism cannot be established with lasting success as an isolated phenomenon in one country alone. The court said,

> "When they use words which may or may not mean the forbidden thing, they intend just one thing and that is to squirm through the statute leaving a haze which they hope will make it impossible or difficult to find any fracture by their passage."

Statement of Peter Camejo Before
the House Select Committee on
Intelligence, November 18, 1975

The Fourth International continues to be the worldwide Trotskyist revolutionary organization and is presently headquartered in Brussels, Belgium. Although claiming to have withdrawn from formal affiliation in 1940, the SWP continues to maintain a close association with the FI and participates and votes as a "sympathizing group" in FI meetings.

The 1975 Prospects for a Socialist Revolution states:

> "The Marxist model for constructing a revolutionary program in the imperialist epoch is the founding document of the Fourth International, the world party of socialist revolution, founded by Leon Trotsky in 1938."
>
> "The Socialist Workers Party is internationalist to its core. Not only are world developments shaping the coming struggles at home, but the American workers' enemies are the exploiters on a world scale. The perspective of the Communist Manifesto--' Workers of the world, unite'--remains our fundamental goal. While reactionary legislation precludes formal affiliation to the Fourth International, the Socialist Workers Party, since its founding, has been an integral political component of the world party of socialist revolution."

ADVOCACY OF VIOLENCE

Camejo stated that the SWP "doesn't advocate or engage in violent or illegal activity. The FBI has never produced any evidence to the contrary." Mr. McClory asked Camejo if the SWP hadn't originally advocated the overthrow of the Government by force of violence. Camejo answered, "Never in its history."

Statement of Peter Camejo Before
the House Select Committee on
Intelligence, November 18, 1975

The 1938 Declaration of Principles states,

> "The belief that in such a country as the United States we live in a free, democratic society in which fundamental economic change can be effected by persuasion, by education, by legal and purely parliamentary methods, is an illusion."

The court in Dunne v. U. S. considered the above and other quotes from the Declaration of Principles and concluded that the SWP believed the "final step is to overthrow the existing Government by force."

The SWP does not publicly espouse violence or terrorism at the present time; however, material obtained by the FBI does dispute Camejo's statement that, "We believe, as Marxists have always believed, that the philosophy and the methods of terrorism are damaging to the workers movement"; and that "Advocacy of terrorism is incompatible with membership in the SWP." In 1974, a minority faction within the SWP, the Internationalist Tendency (IT), supported the majority position of the Fourth International (FI) and was expelled from the SWP. The IT followers were not expelled for their support of the FI position which favors the current use of guerrilla warfare in Latin America and elsewhere if local conditions indicate that such violence would enhance the revolution. Rather, they were expelled for operating in secrecy in violation of SWP directives governing its own operations. In fact, the majority of the SWP did not reject violence per se but refused to support the FI position because they felt the use of violence was then premature. Some of the followers of the IT position have been reaccepted into the SWP by renewing their unconditional acceptance of the leadership bodies of the SWP.

The 1975 Prospects for a Socialist Revolution states,

> "While powerful world forces are laying powder kegs under American imperialism, only forces inside the United States can take power away from the American capitalists and disarm them."

Statement of Peter Camejo Before
the House Select Committee on
Intelligence, November 18, 1975

> "To protect their struggles and gains against murderous attacks by goons, cops, and fascist bands, the workers will have to organize and train their own forces and use them in the most effective way. Starting with defense of picket lines and the right to strike, the protection of their demonstrations or those of their allies, and proceeding to workers defense guards, workers militias, and the requisite arming of the working class, the working masses will learn from their own experiences what measures to take. The lessons of history, incorporated into the general strategy of the workers movement will prove invaluable on this life-and-death question."

In addition to his statement, Camejo apparently turned over to the Committee a list of some 225 incidents of alleged FBI harassment which have taken place since April, 1971, when Cointelpro was discontinued. The SWP and its youth group, the Young Socialist Alliance, have filed a lawsuit against the Government. A large number of Bureau documents have been released to the SWP through pretrial discovery proceedings. The bulk of these documents concerned Cointelpro - but some have included the files on individual plaintiffs. In the lawsuit, approximately 150 "investigative incidents" have been alleged as examples of harassment by the FBI. These have also included such items as interviews of SWP and YSA members, and their relatives, neighbors, associates and employers. These allegations have been answered in the discovery proceedings in the lawsuit and none has been admitted to be, or should properly be, interpreted as a Cointelpro action. Since the list of 225 items has not been furnished to the FBI and since it apparently concerns a matter in litigation, it would be improper to make further comments at this time.

Courts which have considered the role of the Government with regard to organizations such as the SWP have held that investigation of them is warranted. In Dennis v. United States, 341 U.S. 494 (1951), the court stated,

Statement of Peter Camejo Before
the House Select Committee on
Intelligence, November 18, 1975

> "Obviously, the words cannot mean that before the Government may act, it must wait until the putsch is about to be executed, the plans have have laid and the signal is awaited. If Government is aware that a group aiming at its overthrow is attempting to indoctrinate its members and to commit them to a course whereby they will strike when the leaders feel the circumstances permit, action by the Government is required. The argument that there is no need for Government to concern itself, for Government is strong, it possesses ample powers to put down a rebellion, it may defeat the revolution with ease needs no answer. For that is not the question. Certainly an attempt to overthrow the Government by force, even though doomed from the outset because of inadequate numbers or powers of the revolutionists, is a sufficient evil for Congress to prevent. The damage which such attempts create both physically and politically to a nation makes it impossible to measure the validity in terms of the probability of success, or the immediacy of a successful attempt. In the instant case the trial judge charged the jury that they could not convict unless they found that petitioners intended to overthrow the Government 'as speedily as circumstances would permit.' This does not mean, and could not properly mean, that they would not strike until there was certainty of success. What was meant was that the revolutionists would strike when they thought the time was ripe. We must therefore reject the contention that success or probability of success is the criterion."

The Supreme Court additionally noted that, "If the ingredients of the reaction are present, we cannot bind the Government to wait until the catalyst is added." The Court of Appeals which has considered a portion of the current SWP lawsuit has stated, "The FBI has a right indeed a duty, to keep itself informed with respect to the possible commission of crime; it is not obliged to wear blinders until it may be too late for prevention." (Socialist Workers Party, et. al. v. Attorney General of the United States of America, et. al.; 510 F 2d 253 (1974).)

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

November 28, 1975

RE: STATEMENT OF KATHY SLEDGE-LOVGREN BEFORE THE HOUSE SELECT COMMITTEE ON INTELLIGENCE, NOVEMBER 18, 1975

On May 15, 1974, the FBI received a request for a National Agency Check from the Civil Service Commission (CSC) on Kathy Camille Zahraie, nee Sledge, who was employed at the Veterans Administration Hospital, Seattle, Washington, on March 31, 1974.

A review of FBI files disclosed information concerning Mrs. Zahraie's activities and membership in the Socialist Workers Party (SWP) and the Young Socialist Alliance (YSA) from 1972 to March, 1974. FBI files also disclosed information that Babak Zahraie, Mrs. Zahraie's husband, was also a member of the SWP and YSA. The SWP was at that time cited on the list of organizations designated by the Attorney General pursuant to Executive Order (EO) 10450. The YSA is the youth arm of the SWP.

EO 10450, in its preamble, states that the interests of the national security require all persons privileged to be employed by the Government shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States.

Section 2 of EO 10450 requires the agency head to maintain an effective program to insure employment or retention of applicants and employees is clearly consistent with the interests of the national security.

Statement of Kathy Sledge-Lovgren Before the House Select Committee on Intelligence, November 18, 1975

Section 8 of EO 10450 lists guidelines for developing information which is of investigative and by inference, adjudicative interest.

A full field investigation covering the above standards was initiated by the FBI concerning Kathy Camille Zahraie.

Concerning the statement furnished by Kathy Sledge-Lovgren to the HSC on November 18, 1975, persons interviewed during the FBI full field investigation furnished the following information:

She was an active and participating member of the SWP and YSA from 1972 through the time of the investigation in 1974.

Her co-employees and supervisors were interviewed, one at a time, and were questioned concerning her suitability and loyalty. At no time during or since the interviews have any of these persons complained of having been "upset" at being "brought into the matter."

No complaint has been received, either written or oral, from a Dr. Tremann or from Kathy Sledge-Lovgren's chief supervisor concerning any "disruption," nor were any of her co-employees "ordered" to "come up" and answer questions. The FBI has conducted and continues to conduct numerous investigations of various matters coming within its investigative jurisdiction at the United States Veterans Administration Hospital in Seattle, Washington, and has received no complaint concerning our investigation of Kathy Sledge-Lovgren.

The FBI contacted a total of 5 tenants in four units of the 17-unit complex managed by her. The persons contacted were also questioned concerning her suitability and loyalty.

Her "best friend," could be identical with an individual who was interviewed at an FBI office at her suggestion and by appointment. Her former boss in Chicago was not "called in" for an interview and was not interviewed in an FBI office. Neither complained of "intrusion" nor exhibited "anger" and both furnished information concerning her.

Statement of Kathy Sledge-Lovgren Before the House Select Committee on Intelligence, November 18, 1975

Persons interviewed advised that she and her husband, Babak Zahraie, mentioned the advocacy of violent overthrow of the Government. Her mother, Mrs. James N. Sledge was not interviewed during the investigation. Neither Dr. Sledge nor Mrs. Sledge have made any complaint to the FBI, oral or written, that they were caused embarrassment by the FBI.

The FBI is unaware of the family relationship of the Sledge family.

The FBI has received no complaint, oral or written, from Kathy Sledge-Lovgren, or from any persons contacted during the course of the investigation as to the manner in which the investigation was conducted.

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OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

November 28, 1975

RE: TESTIMONY OF ROBERT GEORGE SILVERMAN
BEFORE THE SELECT COMMITTEE ON
INTELLIGENCE, NOVEMBER 18, 1975

Mr. Robert George Silverman, President of Peer Enterprises, Ltd, testified on November 18, 1975, that during the Fall of 1972, two men who identified themselves as Agents of the Federal Bureau of Investigation (FBI) contacted him and his father at the office of Peer Enterprises, inquiring about Bruce Bloy and one other employee. Mr. Silverman stated that in response to his question as to the purpose of their inquiry he was told that Bruce Bloy and this other employee were members of a political party in which the FBI had an interest. He also stated that as an employer, he had no interest in the political beliefs of his employees and he felt the FBI had no right to inquire at an individual's place of employment. He characterized the approach of the Agents as presumptive, mysterious and aggressive.

Regarding statements made before this Committee by Mr. Silverman, a review was made of files of FBI Headquarters, Washington, D. C., and the Chicago Office of the FBI, concerning this matter. It was determined that Robert George Silverman was never contacted or interviewed by any Agent of the FBI concerning Bruce Bloy. Mr. Silverman was interviewed on April 28, 1975, concerning an ongoing criminal investigation.

Records of the Chicago Office also revealed that Bruce Bloy and another individual, both of whom were members of the Young Socialist Alliance (YSA), youth group of the Socialist Workers Party, were reported by a source to be employed by Peer Enterprises, Chicago, Illinois.

Records of the Chicago Office of the FBI also contain a memorandum dated October 30, 1972, which states that an investigator for a committee of the U. S. House of Representatives reported on that date that he had interviewed J. M. Silverman (father of Robert George Silverman), Owner, Peer Enterprises, regarding the other YSA member who was employed at that company.

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

November 28, 1975

RE: TESTIMONY OF MARCUS G. RASKIN BEFORE THE SELECT COMMITTEE ON INTELLIGENCE, NOVEMBER 18, 1975

The FBI's observations concerning allegations made by Mr. Raskin in his testimony are set forth below.

Mr. Raskin alleges the Bureau rifled the trash and garbage thrown out each day by the Institute of Policy Studies (IPS).

On August 23, 1972, a Special Agent of the FBI's Washington Field Office retrieved some of the contents of IPS trash abandoned by a trash truck at a Washington, D. C. sanitary dump. This was the only occasion where IPS trash was retrieved by FBI personnel.

Mr. Raskin also alleged IPS Fellows were targets of the Boston grand jury investigation of the Pentagon Papers, an investigation which never resulted in indictments. By letter dated August 31, 1971, the then Assistant Attorney General of the Department of Justice, requested the FBI conduct additional investigation of IPS pointing out a possible connection between IPS and the unauthorized disclosure of the "McNamara Papers," a possible violation of Title 18 of the U.S. Code, Sections 792-98, (Espionage).

Mr. Raskin stated, it was clear that IPS Fellows had their conversations intercepted by many warrantless wiretaps, although it is not yet known on whom the taps were placed. Although conversations of individuals previously identified by the IPS as associated with the Institute have been overheard through national security electronic surveillances conducted by the FBI directed at other persons, a review of FBI records of the IPS investigation fails to reveal that the IPS organization or any known IPS Fellow was ever the subject of electronic surveillance conducted by the FBI. The FBI has, however, received information relating to such individuals as a result of electronic surveillance conducted by another Federal agency, which information did not mention the IPS.

Testimony of Marcus G. Raskin Before the Select Committee on Intelligence, November 18, 1975

Raskin also claimed "IPS came to the attention of the D. C. Police and their political intelligence unit. The D. C. Police employed the same informer used by the FBI against IPS, and perhaps several others. Several mysterious break-ins took place at IPS over a course of two years."

Earl Robert Merritt has publicly admitted that he is a former informant of the FBI. Merritt was, in fact, an informant of the FBI. He first contacted the Washington Field Office of the FBI on October 1, 1971, and advised he wished to furnish information to the FBI concerning criminal matters and what could be termed "New Left" activities. Merritt also advised that he was a former source of the Metropolitan Police Department, Washington, D. C. Merritt was discontinued as an informant of the FBI on June 1, 1972, after it became apparent that his credibility was doubtful. At no time was he directed to perform any criminal act by Agents of the FBI, and, in fact, was advised to the contrary. The FBI neither conducted nor directed any break-ins against IPS.

APPENDIX IV.—MATERIALS RELATING TO *SOCIALIST WORKERS PARTY* V. *ATTORNEY GENERAL OF THE UNITED STATES OF AMERICA*

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

November 28, 1975

RE: BASIS FOR INVESTIGATION
OF THE SOCIALIST WORKERS PARTY
AND THE YOUNG SOCIALIST ALLIANCE

During the HSC hearings concerning FBI surveillance activities, November 18, 1975, it was requested that the FBI submit for inclusion in the transcript of the proceedings at line 4, page 4247, documents showing the basis for the investigation of the Socialist Workers Party and the Young Socialist Alliance.

Attached are documents responsive to that request.

Enclosures (4)

[COMMITTEE NOTE.—The attachments submitted with the following affidavit are explanatory in nature and are in the committee files.]

SOUTHERN DISTRICT OF NEW YORK
In the United States District Court

SOCIALIST WORKERS PARTY, et al.,

Plaintiffs,

v.

ATTORNEY GENERAL OF THE UNITED STATES OF AMERICA, et al.,

Defendants.

73 CIV. 3160 (TPG)
AFFIDAVIT

AFFIDAVIT

Hugh Mallet, being duly sworn, deposes and says:

1. I am employed as a Special Agent of the Federal Bureau of Investigation (FBI), Washington, D. C. I am assigned to a supervisory position with the FBI at Headquarters and am familiar with the Socialist Workers Party (SWP) and Young Socialist Alliance (YSA).

2. The continuing investigation of the SWP and of its youth arm, YSA, is conducted to determine whether SWP, YSA and their members are violating any Federal statutes, including Title 18, U. S. Code, 2383 (Rebellion or Insurrection), 2384 (Seditious Conspiracy), 2385 (Advocating Overthrow of the Government), 2386 (Voorhis Act), or Title 50, U. S. Code, 781-798 (Internal Security Act of 1950), as well as to obtain security intelligence information.

Information concerning the activities of SWP and YSA has been received by the FBI from numerous sources, including informants of the FBI, who have been in attendance at SWP and YSA meetings, conferences and national conventions both early in SWP and YSA history and continuing to the present time. In summary, this information is: The SWP and YSA are revolutionary Trotskyist-communist organizations which have as their purpose the overthrow of the United States Government, the institution of a dictatorship of the working class and the eventual achievement of a communist society.

SWP was founded in the United States in 1938 as the American section of the worldwide Trotskyist-communist revolutionary organization named the Fourth International (FI), which is headquartered in Europe. The FI was founded in 1938 in Europe and embodies the ideology of Leon Trotsky concerning the application of Marxism and the need for continuing revolution in the world to achieve communism.

In 1940, SWP withdrew its formal affiliation with the FI to escape application of the Voorhis Act, which regulates certain types of organizations subject to foreign control. Since 1940, however, SWP has conducted a close association with the FI (a majority of which endorses and supports the current use of violence) and SWP participates and votes as a "sympathizing group" in FI meetings. See SWP Internal Information Bulletin, dated April, 1974, and International Internal Discussion Bulletin, dated April, 1974, annexed hereto.

While the SWP and YSA are not known by the FBI to publicly advocate the use of violence at the present time, these organizations maintain that eventual violent revolution is inevitable. SWP and YSA seek to precipitate revolution when conditions are perceived by them to be ripe, and seek to seize control of and direct the revolution when it occurs. Specifically, SWP and YSA are not known by the FBI to have rejected the use of violent and illegal means to achieve their purposes. Rather, information received by the FBI indicates that SWP and YSA would use violent and illegal means to achieve their purposes if such means were considered by SWP and YSA as being expedient. An important minority faction within the SWP intends to take all necessary steps to effectively implement FI decisions. See SWP Internal Information Bulletin annexed hereto.

Regarding the Bolshevik party on which SWP is modeled, it is noted that Lenin described the task of that party as: "To place upon the order of the day armed insurrection in Petersburg and Moscow, conquest of power, overthrow of the government...." (Quoted from "The Russian Revolution," by Leon Trotsky, Doubleday Anchor Books, at page 266.)

SWP has stated that it is based on the doctrines of Marx, Engels, Lenin and Trotsky. Karl Marx wrote in the Communist Manifesto that "The Communists disdain to conceal their views and aims. They openly declare that their ends can be attained only by the forcible overthrow of all existing social conditions."

Leon Trotsky, whose doctrines guide the SWP and YSA, has written concerning means to be used in the revolution. Trotsky said, "the revolution does require of the revolutionary class that it should attain its end by all methods at its disposal - if necessary, by an armed rising: if required, by terrorism." (Quoted from "Communism: Basic Writings," edited by Anne Fremantle, a Mentor Book, at page 252.)

More recently, SWP leaders have commented concerning revolution and the role of their party. The SWP National Committee in March, 1971, adopted a report concerning the building of the Socialist Workers Party which stated that "It must be a mass revolutionary socialist combat party on the Leninist model...." (Quoted from "A Revolutionary Strategy for the 70s, Documents of the Socialist Workers Party," Pathfinder Press, 1972, at page 92.) George Novak, an SWP theoretician, stated with respect to the "coming American revolution" that "it can be anticipated that the direct struggle for power between

the armed camps will be exceedingly ferocious, hard-fought and protracted. It will require extraordinary efforts, tenacity and discipline to dislodge and dispossess the monopolist matters of America." (Quoted from "Democracy and Revolution," by George Novak, Pathfinder Press, 1971, at page 271.)

The SWP newspaper "The Militant," in its issue of May 17, 1974, on page 25, includes an article by an SWP member which states that "The only model of a successful strategy for socialist revolution was that of the Russian Bolsheviks in 1917."

James P. Cannon, longtime leader of SWP who was named as a plaintiff in this case, has stated that "It is the opinion of all Marxists that it (social transformation) will be accompanied by violence." (Quoted from "Socialism on Trial," by James P. Cannon, Pathfinder Press, 5th Edition, 1973, at page 135.) With reference to this very lawsuit, Cannon subsequently stated "We exploit the cracks and crevices in the bourgeois-democratic system without paying the slightest respect to it." (Quoted from the SWP newspaper "The Militant," issue dated January 25, 1974, at page 7.)

It may also be noted on February 20, 1974, Kevin T. Maroney, Deputy Assistant Attorney General, Criminal Division, Department of Justice, appeared before the Committee on Internal Security, House of Representatives, and testified concerning the domestic intelligence gathering function of the FBI. A copy of Mr. Maroney's statement is attached hereto.

HUGH MAILET
Special Agent
Federal Bureau of Investigation
Washington, D. C.

Subscribed and Sworn to before me this _____ day of December, 1974.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SOCIALIST WORKERS PARTY, et al.,	:	
Plaintiffs,	:	
-against-	:	73 Civ. 3160 (TPG)
ATTORNEY GENERAL OF THE UNITED STATES OF AMERICA, et al.,	:	
Defendants.	:	

SUPPLEMENTAL REPLY MEMORANDUM

I.

The FBI has now made its third attempt to come forward with evidentiary materials to support its contention that SWP and YSA advocate overthrow of the government by unlawful means. None of the materials submitted come close to providing a substantial basis for this contention as required by Gibson v. Florida Legal Investigation Comm., 372 U.S. 539 (1963), and similar cases.

On the other hand, the affidavit of Barry Sheppard, and the supplementary affidavit of Richard Finkel, submitted herewith, together with exhibits, provide clear and specific

proof that the plaintiff organizations use and advocate only lawful means to promote socialism, and that they oppose and denounce unlawful methods. Sheppard Aff. p. 2 , Finkel Supp. Aff., p.2-3. 1/

The most recent Mallet affidavit contains numerous charges, innuendoes, conclusions and allegations, but not a single substantial piece of evidence that plaintiffs advocate violence or other unlawful means. And there is not even an innuendo that any member of either plaintiff organization has ever actually engaged in mildly illegal activity, to say nothing of riots, bombings or other violence.

1/ In addition to the materials submitted by plaintiffs herewith, the materials submitted by the FBI refute the contention that YSA favors unlawful activities. Thus, a resolution contained in "Young Socialist Strategy for 72," submitted with the Supplentary Affidavit of Hugh Mallet on December 9, 1974, states at p. 42:

> "The YSA rejects the concept of large-scale civil disobedience as a strategy for the antiwar movement."

In a report contained in the same book, p. 46, concerning an antiwar demonstration at the Pentagon in 1967:

> "We, along with others, had to consistently fight to keep the demonstration from becoming entirely a civil disobedience, confrontationist action."

Mr. Mallet's discussion of violence begins on page 2 of his supplemental affidavit. He opens with an admission that plaintiffs do not "publicly" advocate the use of violence, Id. (emphasis by Mr. Mallet). The emphasis on "publicly" is obviously designed to imply that plaintiffs privately advocate violence. Necessarily satisfied with this innuendo, Mr. Mallet does not directly assert that plaintiffs privately advocate violence which - as the FBI well knows after decades of surveillance - they do not. Mr. Mallet can only assert, without support, that plaintiffs "maintain that eventual violent revolution is inevitable." Id. Even if this assertion were supported and true it would not indicate that plaintiffs advocate violent revolution, which they do not.

Next Mr. Mallet asserts that "SWP and YSA are not known by the FBI to have rejected the use of violent and illegal means." Id. pp. 2-3. This lack of knowledge establishes nothing.

However, we are told, undescribed "information" received by the FBI "indicates" that the plaintiff organizations "would" use illegal means "if" such means were considered expedient. This statement is so unsubstantiated, insubstantial, contingent and vague as to be entitled to no weight whatever.

Next Mr. Mallet attempts to impute to plaintiffs a position of the Fourth International "favoring the current use of guerilla warfare and armed struggle to achieve revolution in Latin America and elsewhere." Id., p. 3. We do not see what solace the FBI can find in this, even assuming that plaintiffs favor the quoted position, which they do not. Americans' sympathy with such struggles, for example in the Spanish Civil War, has never been thought to indicate an intent to overthrow the United States government by force.

Mr. Mallet next quotes a 1940 resolution referring to SWP as a "combat organization," referring to the Bolshevik Party, and referring to doctrines embodied in the principal works of Marx, Engels, Lenin and Trotsky. Id., p. 4. As evidenced by the 34 peaceful years intervening between the quoted resolution and today, the term "combat organization" does not denote violence any more than the terms "fight" or "struggle" which are often used in connection with civil rights, labor and other legitimate social movements. The same goes for the similar, more recent phraseology on page 4 of the affidavit, including the reference to "armed camps" by George Novak. The Novak statement, moreover, even if imputable to plaintiffs, advocates nothing, but merely expresses an opinion

in the nature of a forecast in the course of a published book. This is equally true of James P. Cannon's statement that "it is the opinion of all Marxists that [social transformation] will be accompanied by violence." Mallet Supp. Aff., p. 5.

As for Marx (circa 1850), and Engels, Lenin and Trotsky (who died in 1940), it is true that plaintiffs' organizations are generally based on principles developed by these influential figures. But selected phrases from their writings, quoted out of context, provide no basis for imputing to plaintiffs any unlawful intentions or advocacy concerning the United States government. It borders on the preposterous for the FBI to attempt to justify its actions by quotations from these works.

We add that Mr. Mallet can hardly be viewed as a disinterested, objective witness, in view of the FBI's hostile policy of using its information and power to discredit and disrupt the plaintiff organizations.

In sum, despite decades of surveillance and despite three successive submissions of purported proof from its files on this motion, the FBI has been unable to come up with a single substantial piece of evidence to refute plaintiffs'

position that they are engaged in and advocate only purely legitimate political activity. This is because no such evidence exists. There is therefore no constitutionally adequate basis for any monitoring of the YSA convention, let alone for compiling an attendance list. 2/

II.

At the hearing on December 9, 1974, the court expressed interest in whether the civil service challenges referred to in plaintiffs' moving papers resulted in any onus, burden or stigma on the challenged employees.

At least two of the individuals referred to by plaintiffs were dismissed because of their affiliations, namely Duncan Gordon and Kenneth Ward Evenhuis. This fact appears in the decision and appellate records in Gordon v. Blount, 336 F.Supp. 1271 (D.D.C. 1971), aff'd. 475 F.2d 418 (D.C.Cir.1973), cert. den. 414 U.S. 879 (1973). See 336 F. Supp. at 1272 (Gordon) and 1273 (Evenhuis). Technically,

2/ The FBI could not begin to obtain a search warrant based on this insubstantial submission. Compare Spinelli v. United States, 393 U.S. 410 (1969), holding invalid a search warrant based on ambiguous FBI investigative reports including conclusory statements attributed to informants.

the CSC dismissed Gordon and Evenhuis on the ground that they lied when, despite association with SWP and YSA, they stated that they did not belong to subversive organizations. Id. Both individuals were eventually ordered reinstated but only after assuming the burden of protracted litigation. Id.

As appears in the letters of the Civil Service Commission, Exhibit "A" of the original affidavit of Richard Finkel, affiliation with the plaintiff organizations always results in more than mere cordial correspondence from CSC. At a minimum, the hapless employees are required to answer searching, extensive interrogatories concerning their political activity and beliefs. See, e.g., Id., pp. 4a-8a, 12a-16a. Failure to answer is grounds for dismissal, Id., p. 1a-2a. The CSC correspondence and interrogatories are phrased in accusatorial, intimidating tones. They are always burdensome and intrusive. Often, as with the similar queries in Schneider v. Smith, 390 U.S. 17 (1968), these compulsory interrogatories "pass the outermost bounds of reason." 390 U.S. at 27 (concurring opinion). See, for example, Finkel Aff., Ex. A, pp. 4a-8a (interrogatories to Norma Jean Lodico).

We emphasize that reporting to CSC and other government agencies is only one of the ways in which the FBI has historically harmed people who associate with plaintiffs. See plaintiffs' Memorandum in Support, p. 7.

CONCLUSION

The motion should be granted for the reasons stated above and in plaintiffs' previous memoranda.

Dated: New York, New York
December 12, 1974

Respectfully submitted,

Leonard B. Boudin
Herbert Jordan
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On the Brief:
Herbert Jordan

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

SOCIALIST WORKERS PARTY, et al.,, :

Plaintiffs, :

- against - :

ATTORNEY GENERAL OF THE UNITED STATES OF AMERICA, et al., :

Defendants. :

----------x

AFFIDAVIT

73 CIV. 3160 (TPG)

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

BARRY SHEPPARD, being duly sworn, deposes and says:

I am National Organization Secretary of the Socialist Workers Party. I am familiar with the history, policies, programs and activities of the party.

According to SWP records, a "Declaration of Principles" was adopted at the founding convention in 1938. The Declaration of Principles was withdrawn on December 21, 1940, by a vote of a national convention of the SWP, held in New York City.

Since that date there has been no Declaration of Principles. The only permanent statement of the SWP's purposes and program is found in Article II of the SWP Constitution, copy annexed as Exhibit "A." Article II states:

> "The purpose of the Party shall be to educate and organize the working class for the abolition of capitalism and the establishment of a Workers Government to achieve socialism."

The specific methods used by the SWP to educate and organize are electioneering, distribution of literature, public speaking and other legal activities.

The SWP does not engage in or advocate violence or any other illegal activity. The views of the SWP are reflected in a statement issued on November 22, 1963, by Farrell Dobbs, then National Secretary of the SWP as follows:

> "The Socialist Workers Party condemns the brutal assassination of President Kennedy as an inhuman, anti-social and criminal act. We extend our deepest sympathy to Mrs. Kennedy and the children in their personal grief.
>
> "The act springs from the atmosphere created by the inflammatory agitation and deeds of the racists and ultra-conservative forces. Political terrorism, like suppression of political freedom, violates the democratic rights of all Americans and can only strengthen the forces of reaction. Political differences within our society must be settled in an orderly manner by majority decision after free and open public debate in which all points of view are heard."

Printed in The Militant, December 2, 1963, p.1, copy annexed as Exhibit "B." The SWP continues to adhere to the above views. The views of the SWP on this subject are further reflected in a pamphlet entitled "Marxism versus Neo-Anarchist Terrorism," by George Novak, copy annexed

as Exhibit "C," and in an article at pages 12-13 of the April 5, 1974 issue of The Militant, copy annexed as Exhibit "D."

A copy of the SWP's 1972 election platform is annexed as Exhibit "E."

The policies and facts outlined above are in no way altered or contravened by anything that may appear in the writings of such revolutionary figures as Marx, Lenin, Trotsky, Samuel Adams, Patrick Henry, Frederick Douglass, Eugene V. Debs and others.

s/
BARRY SHEPPARD

Sworn to before me this
12th day of December, 1974.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

SOCIALIST WORKERS PARTY, et al.,

Plaintiffs,

- against -

ATTORNEY GENERAL OF THE UNITED STATES OF AMERICA, et al.,

Defendants.

----------x

SUPPLEMENTARY AFFIDAVIT

73 CIV. 3160 (TPG)

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

RICHARD FINKEL, being duly sworn, deposes and says:

This statement supplements my affidavit dated October 24, 1974.

A recent statement of the means by which YSA seeks to attain its purpose is contained in the "Draft Political Resolution," dated November 1974, annexed as Exhibit "A."

I participated in drafting the resolution, along with other officers and members of YSA. The resolution was adopted and approved by the National Executive Committee. It will be presented to the 14th National Convention in St. Louis for consideration. Past experience indicates that it will probably be adopted by the convention in substantially its present form.

The 1976 Socialist Workers election campaign is discussed beginning at page 26.

Other activities are described throughout the resolution. They include organizing educational forums and picket lines to protest the racist government in South Africa (p.6); exchanging speakers, publications and documents with socialist youth organizations elsewhere in the world (p.7); organizing a student meeting to hear union leaders explain issues in the municipal worker's strike in San Francisco (p.10); getting out the truth about the miner's strike (p.10); helping organize a Freedom March to protest racist resistance to the federal busing order in Boston (p.12); selling The Militant and Young Socialist newspapers (p.13); campus forums, talks, classes and discussions (p.13); participating in boycott committees to support farm workers (p.15); promoting the liberation of women through sales of socialist press, distribution of literature and campus forums on feminism and Marxism (p.18); campus forums, speak-outs, rallies, picket lines, sales of press, classes on Marxist ideas, and student government campaigns (pp.20-21).

YSA does not advocate or use violence or any other unlawful method in connection with the above activities or in any other connection. On the contrary, YSA opposes such methods. For example, at the 1970 YSA convention, held in New York City, a political resolution

was adopted containing the following statement:

"Terrorism

"Several tiny terrorist groups exist in the U.S., composed of individuals who have completely rejected the perspective of winning masses of people to the struggle for social change. As Marxists have pointed out for over a century, isolated acts of violence carried out by a small, self-appointed elite "vanguard," represent a complete retreat from the mass independent struggles that are needed to actually make a revolution.

"Although the terrorist groups in the U.S. today are small and have little political influence in the student movement, their actions are widely publicized and can both disorient the movement and provide the ruling class with a tool for discrediting and attacking it. It is important for us to continue to counterpose a revolutionary socialist mass action perspective to terrorism and to help educate the mass movements against terrorism."

Copy annexed as Exhibit "B." YSA's views have not changed.

I have studied the supplemental affidavit of Hugh Mallet, served on December 11, 1974. Insofar as its allegations concerning the activities and purposes of YSA are contrary to the statements in this and my previous affidavit, the allegations are erroneous.

S/
RICHARD FINKEL

Sworn to before me this
12th day of December, 1974.

APPENDIX V.—POLITICAL RIGHTS DEFENSE FUND REPORT RELATING TO THE FBI'S INVESTIGATION OF THE SOCIALIST WORKERS PARTY AND THE YOUNG SOCIALIST ALLIANCE

PRDF Political Rights Defense Fund

BOX 649 COOPER STATION NEW YORK, N.Y. 10003 212/691-3270

For more information call
Cathy Perkus 212/691-3270
or 202/783-2391

November 18, 1975

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SHERRY SMITH
(SPONSORS ON REVERSE)

A partial list of post-April 1971 incidents of FBI Cointelpro-style harassment of the Socialist Workers party and the Young Socialist Alliance and post-April 1968 burglaries and break-ins at offices of the SWP and YSA and homes of members

(This list of 229 incidents of post-1971 harassment is part of the evidence in the civil suit filed by the SWP and YSA against the FBI, CIA, and other federal agencies to stop unconstitutional harassment of political activists.)

A. Post-April 1971 Cointelpro-style incidents in which FBI agents told employers, landlords, parents, associates, and businesses that individuals are associated with the SWP or YSA (and sometimes called the SWP, YSA, or members "subversive," "violent," or "dangerous")

B. Post-April 1971 Cointelpro-style incidents in which FBI agents interviewed or contacted members (and sometimes called the SWP, YSA, or members "subversive," "violent," or "dangerous")

C. Post-April 1971 Cointelpro-style incidents in which people were discharged from federal employment or harassed by the Civil Service Commission because they belong to or support the SWP or YSA

D. Post-April 1971 Cointelpro-style use of informers in the SWP or YSA, confirmed by the FBI or admitted by ex-informers

And,

E. Post-April 1971 incidents of FBI "pretext phone calls" made by agents to members of the SWP and YSA and to families and friends of members

F. Post-April 1968 political burglaries and break-ins at offices of the SWP and YSA and homes of members

G. Post-April 1971 incidents in which servicemen were discharged with less than honorable discharges by the U.S. Army because they supported the SWP or YSA and in which Selective Service registrants were declared unfit for service because they belonged to or supported the SWP or YSA

A. Post-April 1971 Cointelpro-style incidents in which FBI agents told employers, landlords, parents, associates, and businesses that individuals are associated with the SWP or YSA (and sometimes called the SWP, YSA, or members "subversive," "violent," or "dangerous")

1. In the fall of 1972, in Farmington, Michigan, two FBI agents visited Gail Altenburg's parents and questioned them about her whereabouts.

2. In March 1973, in Burbank, California, FBI agents visited Catherine Anderson's apartment building, 441 Pass Avenue, and questioned the owner about her. They said their investigation "involved the security of the United States."

3. In September 1971, in Albany, New York, FBI agents questioned Richard Ariza's former landlord about him. Agents also questioned the new occupants of his old apartment about him. A personal friend of Ariza's was visited by two FBI agents and questioned about him. Ariza called the FBI office to protest these inquiries, whereupon he was summoned to the federal building and interrogated about his association with the YSA. The FBI agents questioned him about each of the members of the YSA in Albany and about Ruben Montare, a member in New Jersey. They questioned him about the YSA's political positions.

4. In the fall of 1972, in Denver, Colorado, two FBI agents visited Dennis Atkins's employer, Concentrated Employment Program, and asked to speak to him. They characterized the SWP as advocating violent overthrow of the U.S. government. They asked Atkins to help them compile a list of SWP members and supporters in the Denver area and to work for them as an informer.

5. On May 23, 1973, in Boulder, Colorado, two FBI agents (one named Smith) visited Robert Capistrano's apartment and asked him questions about the whereabouts of Skip Ball.

6. In May of 1971, in San Francisco, California, Jeff Berchenko was denied an apartment because "FBI had warned landlord of dangers of the SWP"

7. On August 8, 1973, in Flint, Michigan, an FBI agent visited the home of Ollie Bivens and interrogated him about the YSA and his political activity. His parents were upset and have since attempted to get him to quit the YSA.

8. In the winter of 1973, in Philadelphia, Pennsylvania, an FBI agent telephoned the employer of the mother of Debs Bleicher. He asked to speak to Bleicher's mother and questioned her about her son's activity. Later, Special Agent Charles Warner called Bleicher at home and questioned him about the YSA and SWP. Agent Warner asked Bleicher for names and addresses of other members and asked him to collaborate with the FBI.

9. In spring 1971, in Houston, Texas, FBI agents visited Mrs. Dever, the owner of the apartment at 3914 Dallas Street, and questioned her about David Bliss, a tenant.

10. In October 1972, in Chicago, Illinois, FBI agents on two occasions visited the employer of Bruce Bloy, informed him of Bloy's membership in the SWP, tried to get him fired, and said the SWP was on the attorney general's list of subversive organizations.

11. On Jan. 24, 1975, in New York City, FBI agents visited the landlady and neighbors of Lee Smith and questioned them about Debby Bustin, a friend of Smith's.

12. In November 1972, in San Diego, California, FBI agents visited Bonnie Cady's former employer, Ets-Hopkins & Galvin Corp. and asked questions about her.

13. In July 1972, in Los Angeles, California, FBI agents visited neighbors on both sides of the home of Anne Chase's family. The agents told the neighbors that their investigation had to do with subversives and might involve a morals charge. Later, Chase's father approached persons whom he felt were following him. They revealed that they were FBI agents and told him that Chase was a "stooge" of the SWP and was being "forced" by the SWP to typeset campaign materials in his (the father's) office.

14. In February 1973, in San Diego, California, FBI Special Agent Ryans visited Jo-Ann Della Giustina's landlord and asked her questions about Della Giustina and about Lori Adolewski. On May 30, 1973, Ryans returned and asked the landlord's daughter if Della Giustina and Adolewski still lived there. Agent Ryans returned again a few days later and questioned the landlady. In June 1973, an FBI agent telephoned the landlady and told her Della Giustina was a communist.

At the same time, Della Giustina was fired from her job as a secretary. Also at this time, an FBI informer, John Hollowell, was operating within the San Diego SWP.

15. On April 2, 1975, in Chicago, FBI agents visited the apartment building of Antonio DeLeon and told the janitor that DeLeon "is an unfit tenant."

16. On May 16, 1973, in Denver, an FBI agent telephoned Anne Durrance, new landlord of the building where Dan DeWitt and two other YSA members lived. They questioned her about DeWitt's personal and political activity, said he was in the SWP, and said that the FBI considered him capable of "violent political activity."

17. In summer 1971, in Ann Arbor, Michigan, FBI agent(s) visited Maceo Dixon's parole officer in the 22nd Judicial Circuit of Michigan and questioned him about Dixon's SWP political activities.

18. In September 1972, in Detroit, FBI agents visited George Bachert, landlord of building at 120 Seward, and showed him pictures of several tenants, all of them SWP supporters. The agents characterized Maceo Dixon, a tenant and then a candidate for election to the U.S. House of Representatives, as a "dangerous person."

19. In January 1973, in Columbus, Ohio, two FBI agents (one named Robert Mohler) visited Daryl Drobnic's parents and asked them questions about Drobnic. Later on the same day, they returned and questioned Drobnic about his politics and personal life.

20. In April or May 1973, in Philadelphia, two FBI agents visited the former apartment of Ed Fruit, and interrogated his roommate, Barry Meister, about Fruit.

21. During 1973, in Danvers, Massachusetts, FBI agents visited many people employed by the St. Johns Preparatory School where Craig Gannon's father was headmaster. The agents asked questions about Craig Gannon who had graduated from the school.

22. In December 1972, in Detroit, FBI agents interrogated Lisa Gleischer about her association with the YSA. They also interrogated her parents' neighbors about her.

23. In 1973, in Oakland, California, FBI agents visited the manager of the apartment building at 3302 Telegraph Avenue and questioned her about her tenants, Alan Grady and Linda Somes.

24. In June 1975, in Atlanta, FBI agents questioned Elijah Green's landlord about him.

25. In summer 1972, in Vietnam, agents of the U.S. Army Criminal Investigation Division, interrogated Gary Guy's sister, an army nurse, about her brother. They characterized Guy as a "registered socialist" and questioned her about her private correspondence with him.

26. In February 1973, in Denver, FBI agents visited the manager of Gary Guy's apartment at 1518 St. Paul Street and questioned him about Guy.

27. On Feb. 23, 1974, in Detroit, federal agents visited Craig Haponovich's place of employment, the Fenkell Post Office, and questioned his supervisor, Mr. Pegram, about Haponovich.

28. On May 24, 1973, in Denver, two FBI agents visited Marilyn Rashkind's apartment and questioned her about Marie Head.

29. In late October 1973, in San Francisco, an FBI agent visited the family home of Vaughn Hocikyan and tried to interrogate his grandmother, saying he was investigating a robbery. The agent returned later and questioned Hocikyan's mother about

her son's daily stops at the Soviet Consulate. Hocikyan's mother told the FBI agent that Vaughn delivers The New York Times there. Not satisfied, the agent spoke directly to Hocikyan and insisted on getting a statement in person from Hocikyan about his delivery route. Hocikyan refused to bring in a statement after explaining his job on the phone to the agent. After that, the FBI agent contacted Hocikyan's employer and questioned him about Hocikyan.

30. On two occasions in May 1971, in Utica, New York, two FBI agents visited Stephen Horne and interrogated him about Steve Wattenmaker and Kathleen Fitzgerald, Horne's wife. The agents asked Horne to join the YSA and become an informer for the FBI.

31. In summer 1971, in Kansas City, FBI agents visited the construction jobsite where Johnnie L. Combs was employed as an electrician and interrogated him about John Isenhower, his roommate. Later, Isenhower called the FBI office in Kansas City and complained about the incident. The agent promised Isenhower he would be "rewarded" if he cooperated with the FBI.

32. In December 1972, in New York City, FBI personnel visited the landlord of Elizabeth Jayko, Judy Kleinburg, and Nancy Rosenstock, at 225 East 28th Street, and questioned him about them.

33. In winter 1973, in St. Louis, FBI personnel visited Elizabeth Jayko's employer. After this visit the employer told Jayko's fellow workers to avoid her. Jayko was soon dismissed.

34. In fall 1973, in New York City, FBI agents visited Linda Jenness's landlord, Bernard Lipschutz, at 237 East 5th Street. They told him that in 1972 Jenness had run for president of the U.S. on the SWP ticket. They gave Lipschutz the impression that Jenness's activity was illegal and that he did not have to rent to "people like her."

35. Through 1971, in Chillicothe, Ohio, FBI agents visited Joseph P. Kear's father at 978 Simon Lane and questioned him about Kear.

36. In January 1973, in Oakland, California, FBI personnel visited Joseph P. Kear's aunt and uncle at Fruit Hill Drive and questioned them about Kear.

37. In May 1971, in Oakland, California, FBI personnel visited Jim Kendrick's apartment at 456 Rich Street and questioned the babysitter about Kendrick's wife's political beliefs and activity.

38. In October 1972, in Douglasville, Georgia, FBI agents visited Barbara Kiene's employer, the Hartford Insurance Group, and left a message for Kiene to call Special Agent Charlie Fullam at the FBI office. Kiene called Fullam. He questioned her extensively

about the YSA, its activities and its members. They FBI also visited her parents and told them that Kiene's YSA activities were a "threat to the U.S. government." Her parents ordered her to quit the YSA and forbade her from visiting the Atlanta offices of the SWP and YSA. She resigned from the YSA in November 1972. In December 1972 Special Agent Fullam called Kiene at her new apartment and asked her again for information about YSA members and for YSA literature.

39. On Feb. 1, 1973, in Detroit, two FBI agents (one named Bill Jones) visited Sandy Knowles's apartment and questioned her roommate, Steve Beren, about her.

40. In June 1973, in Mt. Vernon, New York, FBI personnel visited neighbors of Marc Lichtman's father and questioned them about Lichtman. In the same month, an FBI agent called a neighbor of Marc Lichtman's mother and questioned her about Lichtman.

41. In April 1975, an FBI agent visited Jack Lieberman's apartment building and questioned the elevator operator about "the real tall, really revolutionary guy" (Lieberman).

42. In 1971, in Lynn, Massachusetts, FBI personnel visited Stanley Lipman's employer, Murphy Plumbing Co., and asked if they knew they had a communist working for them, naming Lipman. The agent then questioned the employer about Lipman.

43. In July 1973, in San Diego, FBI agents told Vinnie Longo's employer of Longo's membership in the SWP and said that the employer should fire Longo. Employer said that he would no longer hire members of the SWP as a result of that visit.

44. In spring 1975, in New York City, FBI personnel questioned the superintendent of Wendy Lyons's apartment building about Lyons.

45. In 1972,in Oakland, California, FBI personnel visited the office of Nancy Mackler's landlord, Ansil Realty,at 4432 Piedmont Avenue. They asked questions about the politics and life style of Mackler and her roommates, all YSA members. The agents told the landlord that Mackler and her roommates were subversives.

46. In June 1971, in Denver, two FBI agents (one named Clapp) visited John Maley's employer and asked questions about Maley. Later they visited Maley and questioned him about his political activity.

47. In summer 1973, in Morristown, New Jersey, FBI Special Agent Devlin visited Deborah Meldrin's home and questioned a friend about Meldrin and her husband Howard Meldrin. Agent Devlin left his number for the Meldrins to call. Deborah Meldrin called the number and Agent Devlin questioned her about her political activity and that of her husband.

48. In March 1974, in Morristown, New Jersey, two FBI agents (one named Koslap) approached a security guard at the bank where Deborah Meldrin works and questioned him about her.

49. On Mar. 12, 1974, in Morristown, New Jersey, two FBI agents (one named Koslap) visited Deborah Meldrin at home. They asked her for a photograph of her estranged husband, Howard, and questioned her about his activities in New York City where he lived. The agents told her that they had found out much about her past and were keeping her and Howard under surveillance.

50. In late 1972, in Hughson, California, two FBI agents visited a former employer of Ross G. Nicholas and asked questions about Nicholas. Two FBI agents visited Nicholas's wife and questioned her about Nicholas. Two FBI agents visited Nicholas and questioned him extensively about the YSA, SWP, members of both groups, and Nicholas's own activity. The agents told Nicholas that the SWP was on the attorney general's list of subversive organizations and that consequently Nicholas's name was on a government subversive list. They told him that the SWP was controlled from a foreign country. They showed Nicholas a large file and told him that it was his FBI dossier.

51. In August 1973, in Chicago, an FBI agent told Sandy O'Neil's landlady that O'Neil was "in a dangerous group."

52. In fall 1972, in San Rafael, California, FBI agents visited Ron Payne's employer, Programming Products, Inc., and asked questions about Payne.

53. In May 1973, in Cincinnati, FBI personnel visited the security officer of Walnut Hills High School and asked who had arranged a speaking engagement for Andrew Pulley at the school. The agent offered to place a "tail" on the person who had arranged the meeting.

54. On Mar. 26, 1973, in Detroit, two FBI agents (one named Bill Jones) visited Arturo Ramirez's wife, Margot Ramirez, and questioned her about his political activity. She refused to answer their questions and they threatened her by claiming that they knew of unspecified "problems" she was having with the law. They asked her to call 965-2373, ext. 358, if she changed her mind about talking.

55. In October 1972, in San Diego, FBI personnel visited Marc Rich's employer, A-1 Bindery, and told the boss, Pete Randall, that Rich was in the SWP and that the FBI did not like members of the SWP working in companies that had government contracts. The employer told Rich he would be fired if he talked to his fellow workers about his socialist ideas.

56. In April 1973, in San Diego, FBI personnell visited Marc Rich's new employer, Great Western Printing, and questioned

Rich's supervisor's secretary about Rich. They told the secretary "to check voter registration" if the supervisor wanted to know why Rich was being investigated. Rich's supervisor telephoned the San Diego election records office and was told that Rich was affiliated with the SWP. At the time Rich was a candidate for shop steward in elections soon to be held. The supervisor told a union official that the union should prevent Rich from being a shop steward because he was "a communist being pursued by the FBI."

57. On Nov. 28, 1972, in San Diego, FBI personnel visited the aunt and uncle of Jana Roten and questioned them about Roten.

58. In May 1971, parents of Paula Savich and Charles Ostrovsky received anonymous threatening letters about Savich's and Ostrovsky's political activities at the University of Indiana at Bloomington. (A two-year long Cointelpro operation at the U. of Indiana was supposedly discontinued in July 1970.)

59. From August 1970 to January 1972, in Austin, Texas, FBI agents visited the Executive Director and two assistant directors at Evelyn Sell's employer, the Human Opportunities Corporation of Austin, Texas. The agents questioned Sell's superiors about her and informed them that Sell had run for public office as an SWP candidate in 1958. (Cointelpro files have shown that the FBI got Sell fired in 1970 from another teaching job in Austin.)

60. In February or March 1973, in Columbus, Ohio, FBI agents visited Sam Shannon's parents and questioned them about him.

61. On Nov. 11, 1974, in Columbus, Georgia, FBI Special Agent Charles Rhodes told Martha Shockey's employer that she was a member of a subversive organization, the YSA. In April 1974 Shockey organized a meeting in Columbus for the SWP gubenatorial candidate. Also at this time her name, address and phone were listed in "Socialist Directory" in the socialist newsweekly, The Militant. On Feb. 14, 1975, after an inquiry by Shockey, FBI Director Kelley wrote to her congressman (Jack Brinkley) that she "was the subject of an appropriate investigation at Columbus, Georgia during 1974."

62. In summer 1974, in Oakland, California, FBI agents visited the manager of Caryl Sholin's apartment. They asked questions about Sholin and her roommate and told the manager both were members of a "Communist organization" and Sholin worked for a bookstore which sold "communist books."

63. In early 1972, in New Orleans, FBI personnel visited David Shroyer's neighbors and questioned them about his political beliefs and activity.

64. On May 1, 1973, in Philadelphia, two FBI agents (one named Charles Warner) visited a neighbor of Bob Stanton and asked questions about Stanton.

65. In May 1972, in Los Angeles, FBI personnel visited three neighbors of Bruce Tapper and questioned them about his morals and political views. FBI personnel also visited Milt Wolpin, the professor chairman of Tapper's graduate committee at the U. of Southern California and questioned him about Tapper. FBI personnel also visited Tapper's employer, the Veterans Administraion Hospital, and questioned Tapper's supervisor about Tapper's loyalty.

66. In mid-August 1972, in San Diego, FBI Special Agent Green telephoned Page Tulloch and tried to set up a meeting to discuss the YSA. Tullock didn't agree to the meeting. Green then told Tullochthat the FBI was "concerned" about his activity but that the FBI did not want to resort to measures that would harm Tulloch. Green said such measures would include talking to Tulloch's parents, employer, friends, neighbors, and unspecified "other things." Green said the FBI "had pictures" and that it was against the law to "conspire against the United States government." Finally, Tulloch agreed to meet with Green but later cancelled the appointment.

In September 1972, Green called Tulloch's mother and told her that he didn't want to do anything to hurt Tulloch and would not need to if Tulloch would cooperate. Later in September, Green called Tulloch's mother a second time and told her that he was "very disappointed" that Tulloch had not cooperated. Green said that he would be"forced" to inform Tulloch's employer that Tulloch was a socialist. He said the FBI had become "quite concerned" because Tulloch was "moving up in the party."

In December 1972, in Philadelphia, FBI personnel visited Tulloch's sister and brother-in-law and questioned them about Tulloch. The agent said that the inquiry resulted from Tulloch's affiliation with the SWP.

67. In 1973, in Louisville, Kentucky, an FBI agent called Gary Valenza's landlord and questioned him about Valenza. The agent said his investigation was for "national security."

68. In October 1972, in Long Beach, California, FBI personnel visited John Van Lewan's employer, Longbeach Aircraft Co., and told the employer that Van Lewan was in the SWP.

69. In August 1973, in Oakland, California, FBI personnel visited the neighbors and the employer of Joe Ward, Sr., father of Joe Ward, and falsely told them that Joe Ward, Sr. was a "Trotskyite Communist" and member of the SWP.

(In November 1969, in Carmel, California, an FBI agent visited Joe Ward and his family at home. The agent tried to persuade Ward to drop out of the YSA. He told Ward and his parents that the YSA was a "Trotskyite Communist" organization that was trying "to use" Ward for "its own ends." The agent said that Ward's father would lose his job if Ward remained in the YSA.)

70. In June 1973, in Austin, Texas, FBI personnel (including Special Agent Jack King) visited Wendy Wisenberg's landlady, Loraine Thrasher, and questioned her about Wisenberg. They also visited a former neighbor of Wisenberg's and asked

questions about her. On June 13, 1973, FBI Special Agents King and Holmes visited Wisenberg at her home, 601 West 19th Street, #B and interrogated her about the SWP.

71. In November 1972, in Cleveland, one week before the YSA national convention, FBI personnel visited Dwight Knapp, manager of the Sheraton-Cleveland Hotel, site of the convention. The agents tried to get Knapp to disclose financial records relating to the YSA. They told Knapp that the YSA was a dangerous organization and that FBI agents would be assigned to monitor the convention.

72. In August 1974, in St. Louis, FBI Special Agent Stephen Kettner visited Jacqui Craig, employed in the sales department of the Jefferson Hotel where the YSA was holding its annual national convention in December. Kettner told Craig that the FBI "would be on the premises" and "would keep an eye on the convention in case anything should break out." He asked for information about convention arrangements.

73. In June 1971, in Pittsburgh, U.S.Parole Officer Jesse Clark told Ellard Yow that if the Washington Parole Board were informed of his politics that he could be recommitted for being a "menace to the community."

74. On Nov. 14, 1972, in San Diego, Matilda Zimmerman was fired from her job as a secretary after an FBI agent visited her employer. (From Zimmerman's sworn statement): "In the fall of 1972 I was working as a secretary for L'Mer Engineering, 1345 Crosby Street, San Diego. L'Mer Engineering is a firm which does engineering work predominately on contract for the U.S. Navy. On Nov. 14, 1972, my immediate supervisor at L'Mer, Mr. Herbert Padro, called me into his office and unexpectedly informed me that the president of the company, Mr. Donald Parsons, had told him to fire me. During the period I had been working at L'Mer, my work had been consistently praised by both Parsons and Padro and I was given steadily increasing amounts of responsibility in the office. Padro in fact indicated to me that he had protested to Parsons that my sudden departure would cause serious disruption in work then in progress. When I demanded a reason, Padro simply said he had insisted that I leave immediately, that afternoon. He said he had no authority to tell me anything more about why I was being fired. About three weeks later I returned to L'Mer to collect my last paycheck, found Parsons in the office, and asked for a reason for my firing. Parsons told me that the FBI had come to L'Mer and asked questions about me. He said they had "warned" him about me. He also said that the reason L'Mer had not mailed my last check was because the FBI had told them that I had moved out of my apartment and they were looking for me. I had not moved."

B. Post-April 1971 Cointelpro-style incidents in which FBI agents interviewed or contacted members (and sometimes called the SWP, YSA, or members "subversive," "violent," or "dangerous")

75. On Feb. 26, 1973, in Kalamazoo, Michigan, FBI Special Agent Blake called Gail Altenburg's dormitory room at Kalamazoo College and asked to see her the next morning at 10 o'clock. On Feb. 27, she went to the FBI office in Kalamazoo. Special Agent Blake took her to a conference room and questioned her. He said the SWP had been classified as subversive by the attorney general since 1955. He tried to convince her that she should quit the YSA. He warned of possible harm to her career if she remained in the YSA.

76. In summer 1971, in Kansas City, Missouri, FBI personnel visited Joyce Anderson.

77. Dennis Atkins, 1972, see # 4

78. Twice during 1974, in Bloomington, Indiana, FBI personnel interrogated Gary Atwood.

79. In 1972, in New York City, an FBI agent called Michael Baumann at work and said, "I want to talk to you about some things in your past."

80. In 1974, in Atlanta, FBI personnel contacted Omari Benduli.

81. On Dec. 13, 1972, in Detroit, Jeff Berchenko got a message at the Detroit SWP office asking him to call 965-2373, ext. 358. He called the number and a voice answered "FBI." Berchenko hung up.

82. In fall 1974, in Pittsburgh, FBI personnel contacted Neil Berns.

83. Debs Bleicher, 1973, see # 8

84. In October 1972, in Cleveland, FBI personnel contacted John Bocchicchio and asked him to become an informer.

85. In 1972 and 1973, in St. Louis, FBI personnel contacted Bill Breihan.

86. On Dec. 24, 1974, in Chicago, FBI personnel visited and questioned Cynthia Caine.

87. In September 1972, in Oklahoma City, Oklahoma, FBI personnel contacted Ronnie Cammack.

88. In spring 1975, in Racine, Wisconsin, FBI personnel contacted Randy Christensen.

89. In 1974, in San Francisco, FBI personnel contacted Joseph Cole.

90. In summer 1974, in New York City, FBI personnel contacted Fran Collet.

91. In 1973, in Washington DC, FBI personnel contacted Afrodita Constantinidis.

92. In summer of 1971, in Kansas City, Missouri, FBI personnel telephoned John Constant and attempted to interrogate him.

93. In May 1973, in Seattle, FBI personnel visited John Cotman and tried to interrogate him.

94. On Oct. 20, 1972, in Detroit, two FBI agents visited Bruce and Jo Dallas at home and questioned them about their political views and the SWP. This visit was prompted by Bruce Dallas's recent attendance at two public forums sponsored by the SWP at the campaign headquarters.

95. In February 1973, in Atlanta, two FBI agents came to Steve Dash's apartment at 8:00 AM and asked to see his roommate Allan Mellman.

96. On May 21, 1973, in Seattle, FBI Special Agent Cliff Spingler visited John Deeter's apartment and left a note: "John Deeter/please call/Cliff Spingler/Seattle FBI/MA 2-0460." Deeter called. Agent Springler said that it was his duty to investigate groups advocating the violent overthrow of the government. He said that the SWP and YSA were such groups and tried to interrogate Deeter about them.

97. In early 1973, in Los Angeles, an FBI agent called Lucio DeLeon at his job and made an appointment for a meeting nearby. The agent met with DeLeon and interrogated him about the SWP. He offered to pay DeLeon to inform on the SWP.

98. Daryl Drobnic, 1973, see # 19

99. On July 24, 1974, in Nashville, Tennessee, FBI Special Agent Laverne Moore visited Warren Duzak and attempted to interrogate him. Moore commented on the presence of another person in Duzak's house, saying "I thought you lived by yourself."

100. In February or March 1973, in San Antonio, Texas, FBI personnel visited Lark Eannance and questioned her about the SWP and YSA.

101. On April 1, 1973, in Eugene, Oregon, two FBI agents

met up with Kenneth Eardly on the campus of the University of Oregon and interrogated him. Eardly asked the agents how they knew where to find him. He was on the campus very seldom. The agents replied, "We do our homework."

102. In May 1973, in Philadelphia, two FBI agents visited Jean Savage and questioned her about Jean Fargo.

103. On Jan. 8, 1973, in Atlanta, at 6:30 AM two FBI agents visited Tom Fiske and questioned him about the SWP and YSA. They said they would contact him again for more questions.

104. In July 1972, in Detroit, Kirk Fowler got a message at his job, the Holden Office of Michigan Social Services, to call Bill Jones at 965-2373. He called and a voice answered "FBI." He asked for Bill Jones and was connected with a person who questioned him about the SWP and its politics.

105. In 1971, in Detroit, Ed Frisch was interrogated by FBI personnel. The agents showed Frisch a YSA financial report that had members' first names and last initials typed on it. The full last names were written in in longhand. They singled out the fact that Ernest Harsch had given $40.00 to the YSA fund drive.

106. In fall 1972, in Los Angeles, FBI personnel interrogated Cynthia Fuller about her YSA activities and other YSA members.

107. In June 1974, in Cleveland, FBI personnel interrogated Chris Giordono and threatened to "make things hard" on him and his parents.

108. Lisa Gleischer, 1972, see # 22

109. On Feb. 26-27, 1974, in Indianapolis, FBI agents called John Goldberg and questioned him about SWP and YSA members in Indianapolis and Bloomington.

110. In spring 1973, in Columbus, Ohio, FBI personnel visited Lyle Gordon and interrogated him about the YSA and SWP.

111. In spring 1972, in Detroit, two FBI agents visited Bill Grettor and questioned him about SWP, YSA, and his own political views and financial affairs. They questioned him about Barry Sell.

112. In 1972, in Oakland, California, FBI personnel visited and questioned Gerard Guiber.

113. In fall 1972, in College Park, Maryland, FBI agents visited Peter Haas and questioned him about the YSA and his political activity.

114. In fall 1971, in Brigham City, Utah, FBI Special Agent Bishop of the Logan FBI office interrogated Shelley Hannum, Brad Glover, and two other members of the YSA.

115. On May 30, 1973, in Denver, two FBI agents visited Marie Head at her apartment and questioned her about the SWP and YSA and her political activities.

116. In April 1973, in Jamestown, New York, Kurt Hill got a call from Special Agent Engel who wanted to question Hill about his political activity in support of the SWP's 1972 presidential campaign.

117. In March 1975, in Berkeley, FBI personnel contacted John Hummer and called the SWP "subversive."

118. John Isenhower, summer 1971, see # 31

119. On April 26, 1973, in Philadelphia, FBI Special Agents Warner and Harris visited Samara Jarosh at home and questioned her about the SWP and YSA. They said the SWP advocates "new ideas of a violent nature." They requested a list of members and local leaders. They threatened to tell her parents about her membership and said they "would hate to have to embarrass her at work." They told her they would return.

120. In February 1973, in Los Angeles, two FBI agents stopped Claire Jones, a postman, on his rounds and interrogated him about the SWP and YSA.

121. On Oct.27, 1972, in Detroit, two FBI agents visited Robin Maisel's apartment and left a message for Maisel to call Special Agent Bill Jones at 965-2373, ext. 358. Maisel called and Agent Jones questioned him about the SWP and his relationship to it.

122. John Maley, June 1971, see # 46

123. In summer 1973, in Carbondale, Illinois, an FBI agent called Matthew Meighan and questioned him about his activities with the YSA.

124. Deborah and Howard Meldrin, 1973 and 1974, see # 47 and 49.

125. In fall 1971, in Miami, FBI Special Agent Marvin Lewis of Boston, a relative of Allan Mellman, came from Boston and tried to persuade Mellman to quit the YSA. He told Mellman that the YSA was under suveillance by the FBI and that all SWP and YSA members including Mellman were surveilled.

126. Ross Nicholas, 1972, see # 50

127. In February 1972, in Denver, FBI agents contacted

Sheri Nolan and asked her to become an informer.

128. On March 7, 1973, in Detroit, an FBI agent called Jane Osterberg's mother and left a message for Osterberg to call Special Agent Bill Jones of the FBI. Osterberg called and Agent Jones told her the SWP was subversive and questioned her about the SWP and a number of SWP members including Mike Melin.

129. In spring 1975, in Chicago, FBI personnel contacted Charles Ostrovsky.

130. In April 1973, in Philadelphia, FBI personnel visited Jo Otero's apartment and left a note saying, "Miss Otero/ Call Agent Warner, FBI/LO 3-5300 after 5:00 pm." On May 2, 1973, Agent Warner rang Otero's apartment bell, came to her door, and tried to interrogate her about the SWP and YSA.

131. On Nov. 22, 1972, in Ann Arbor, Michigan, FBI Special Agent Gene Ward visited Dave Richmond's apartment and left a note for Richmond to call Ward at 662-2597. Richmond called and Agent Ward questioned him about the YSA.

132. On Nov. 10, 1972, in Ann Arbor, Michigan, FBI personnel visited David Ruhland's apartment and questioned his roommate about him. They left a message for Ruhland to call Gene Ward of the FBI at 662-2597. Ruhland called and Agent Ward questioned him about his association with the SWP.

133. In September 1971, in Detroit, an FBI agent called Joseph Saunders and asked him for information about the SWP.

134. In April 1973, in Philadelphia, two FBI agents visited Joseph Saunders's apartment and asked for his roommate, a member of the SWP who was not at home. The agents left, telling Saunders, "We know who you are."

135. On Nov. 14, 1973, in Bloomington, Indiana, an FBI agent with the first name of Tom visited Marc Schultz's place of employment. He told Schultz that the YSA was "dominated" by the SWP and therefore was a Communist or Communist-sympathizing group.

136. In January 1975, in Seattle, FBI personnel contacted Marty Semerad.

137. In January 1973, and again in spring 1973, in Columbus, Ohio, an FBI agent visited Nancy Stemmer and questioned her about the YSA and her activities in Columbus. He also asked questions about Julie Bingham and Shirley Pasholk.

138. On June 21, 1973, in Austin, Texas, FBI Special Agents Holmes and Riley visited Richard Stewart. Stewart was wearing a T-shirt imprinted "Vote Socialist Workers." The agents questioned him about the SWP and taunted him about his t-shirt.

139. On April 8, 1975, in Castro Valley, California, Special Agent Mullen visited Linda Simpson, neighbor of Jane Super, and said he was conducting a "confidential inquiry." He questioned her specifically about Jane Super.

140. On May 15, 1973, in Seattle, two FBI agents visited Joanne Thomas at her family home and questioned her about the YSA and her association with it.

141. In March 1973, in Detroit, FBI Special Agent Clyde Merriman visited Jackie Toney's job. He posed as a friend of Toney's to get in to see her and they questioned her about the YSA.

142. Page Tulloch, 1972, see # 66

143. In summer 1972, in Detroit, FBI Special Agent Bill Jones visited Don Upton's apartment at 127 Seward and left a note for him to call Bill Jones at 065-2373, ext. 538.

144. On Aug. 29, 1972, in Detroit, Special Agent Bill Jones and another agent visited Christy Wallace at her job, Hagemayer Enterprises, 929 Penobscot Building, and questioned her.
(In August 1972, in Detroit, FBI personnel visited a former employer of Wallace, International Multifoods, and interrogated them about Wallace who was then running for public office on the SWP ticket.)

145. In October 1973, in Boerne, Texas, FBI agents visited Ed Weaver and attempted to question him.

146. In May 1973, in Seattle, FBI personnel visited Harriet Weinhold's apartment and left the following note: "Harriet or Wes Weinhold/Please call/Clifford M Spingler/Seattle FBI/MA 2-0460." The Weinhold's attorney, Mike Withey, called Agent Spingler. Spingler said that the basis for his inquiry was that the SWP and YSA were putting out literature that called for the violent overthrow of the U.S. government.

147. In 1972, in Cleveland, FBI personnel visited Marcia Wheeler at her job at Metropolitan General Hospital and questioned her about the YSA and SWP. They threatened her with firing if she stayed in the YSA and mentioned the potential hardship for her four-year-old daughter if Wheeler lost her job. Shortly afterwards Wheeler quit the YSA.

148. In August 1971, in Detroit, three FBI agents

(including Jack Lowie) visited Steve Williams, a truck driver, and questioned him about the SWP and YSA. They asked him to cooperate with them. They said they knew of several traffic violations that, if reported, could result in revocation of Williams's drivers license. They said they knew that Williams hoped to become a lawyer and that the FBI would be able to help him do so if he cooperated with them. This offer was repeated in the fall of 1972.

149. Wendy Wisenberg, 1973, see # 70

150. In summer 1971, in Kansas City, Missouri, FBI agents visited Raleigh Woods and questioned him about the YSA.

C. Post-April 1971 Cointelpro-style incidents in which people were discharged from federal employment or harassed by the Civil Service Commission because they belong to or support the SWP or YSA

151. Steve Beck, June 3, 1975, ordered to comment on and explain association with the SWP.

152. Jeanne FitzMaurice, June 1975, ordered to comment on and explain association with the SWP.

153. Alan Green, 1971, ordered to comment on and explain association with the YSA.

154. Emily Homonoff, Sept. 12, 1972, ordered to comment on and explain support of SWP and its 1972 election campaign.

155. Lawrence Hyink, Dec. 5, 1973, ordered to comment on and explain association with SWP.

156. Norma Lodico, Dec. 5, 1973, CSC produced a detailed dossier on Lodico's political activities while a member of the SWP. The dossier included a copy of Lodico's March 29, 1971 letter of resignation from the Detroit SWP. Lodico gave the letter to the organizer of the Detroit SWP and he kept it in his personal files.) In the course of the SWP suit, the CSC admitted in court that it received a copy of Lodico's letter from the FBI. How did the FBI get it? In the fall of 1971, still-unknown burglars broke into the Detroit SWP campaign office and stole mailing lists, lists of contributors, and the only copy of Lodico's letter of resignation. A Detroit policeman at the scene of the burglary commented: "It looks like an FBI job." Soon after the theft of the lists, many individuals in Detroit -- whose names appeared on the lists -- began getting visits and calls from FBI agents.

157. Kathy Sledge, Oct. 11, 1974, ordered to comment on and explain association with the SWP.

158. Sarah Ullman, Oct. 7, 1975, ordered to comment on and explain association with the SWP.

159. Alice Woznack, Mar. 6, 1973, ordered discharged and barred from government employment.

D. Post-April 1971 Cointelpro-style use of informers in the SWP or YSA, confirmed by the FBI or admitted by ex-informers

160. John Hollowell, who served as an informer in San Diego, California from 1961 to 1973.

161. Stephen Cooper, who served as an informer in Indianapolis from January 1972 to April 1973. The FBI admitted it paid Cooper to run for school board in 1972.

162. In December 1974, in the SWP suit, the FBI argued that informers in the YSA be allowed to attend and monitor the YSA national convention because some of the informers are leaders of the group who "would be conspicuous by their absence" and "non-attendance of confidential informants at the upcoming YSA convention will tend to identify them and compromise their security."

163. John Neal, who served as an informer from June 1969 to March 1975 in Norman, Oklahoma. The FBI admitted that Neal was on the bureau's payroll as an informer. In 1971 Neal helped start the YSA chapter in Norman.

E. Post-April 1971 incidents of FBI "pretext phone calls" made by agents to members of the SWP and YSA and to families and friends of members. Agents assume phony identities, sometimes pretending to be court officials checking about "jury duty," to try to glean information and harass members. In an initial response, the FBI admitted in court that agents made five of these "pretext calls."

164. Byron Ackerman, spring 1972, jury duty, New York City

165. Wendy Banen, June 1975, jury duty, New York City

166. Jack Barnes, Mar. 30, 1974, jury duty, New York City

167. Andrew Bustin, Nov. 23, 1973, jury duty, New York City (in court, Sep. 10, 1975, FBI admitted making call)

168. Vangie Eidsvik, July 31, 1973, jury duty, New York City

169. Jean Fargo, April 1973, jury duty, New York City (in court, Sep. 10, 1975, FBI admitted making call)

170. Jane Fisher, fall 1972, jury duty, New York City (in court, Sep. 10, 1975, FBI admitted making call)

171. Jerry Freiwirth, summer 1972, jury duty, New York City

172. Ed Fruit, 1973, person posing as SWP organizer called Fruit's parents and questioned them about him, Philadelphia

173. Sara Gates, June 1972, jury duty, New York City

174. Phyllis Kittler, spring 1972, jury duty, New York City

175. Caryl Loeb, Nov. 1973, jury duty, New York City

176. Janice Lynn, 1972, jury duty, New York City

177. Jose Pérez, January 1973, jury duty, New York City

178. Mimi Pichey, June 1973, jury duty, New York City

179. Arlene Rubinstein, January 1973, jury duty, New York City (in court, Sep. 10, 1975, FBI admitted making call)

180. Dave Salner, spring 1972, New York state lottery official, New York City (in court, Sep. 10, 1975, FBI admitted making call)

181. Diane Shur, July 13, 1973, jury duty, New York City

182. Linda Slodki, Sep. 28, 1973, jury duty, New York City

183. Jesse Smith, 1973, jury duty, New York City

184. Debbie Woodruff, January 1973, person posing as census taker visited and questioned Woodruff during a non-census year

F. Post-April 1968 political burglaries and breakins at offices of SWP and YSA and homes of members.

185. In August 1970, in Washington DC, FBI personnel searched Bonnie Cady's personal belongings at 3503 Springland Lane, NW and removed political literature. (In November 1970, in New York City, FBI personnel visited the superintendent of Bonnie Cady's apartment building at 522 East 11th Street and asked questions about her. They asked to be admitted to her apartment, but the superintendent refuse.)

186. In fall 1970, in Sarasota, Florida, Jose Perez's apartment was broken into and a number of radical newspapers, pamphlets, and leaflets were stolen.

187. On Oct. 31, 1971, in Detroit, SWP campaign offices located at 3737 Woodward Avenue were broken into. Stolen were lists of campaign supporters, campaign contributors, and subscribers to the Militant newspaper, political correspondence, and a letter of resignation from the SWP. (One policeman at the scene of the burglary remarked that "It looks like an FBI job.")

Soon after the theft of the lists, many individuals in Detroit -- people whose names appeared on the lists -- began getting visits and calls from FBI agents.

The stolen letter of resignation (written by Norma Jean Lodico) turned up Dec. 5, 1973 in a Civil Service Commission dossier about Lodico's political activities. The CSC ordered Lodico to explain her association with the SWP (almost three years after she resigned). In the course of the SWP suit, the CSC admitted it received from the FBI a copy of Lodico's letter of resignation.

188. In fall 1971, in Detroit, Craig Gannon's apartment was broken into and political files stolen, including a list of names and telephone numbers of members of the Detroit SWP.

189. On Jan. 28, 1972, in October 1972, and on Feb. 9, 1973, in Houston, the SWP headquarters was broken into and ransacked. Stolen were valuable records and equipment.

190. On Feb. 1, 1972, in Detroit, Charles Bolduc's apartment at 4225 Commonwealth Avenue was burglarized. Stolen were memberships lists, mailing lists, political correspondence, and other internal party records.

191. On Mar. 7, 1973, in Houston, Tom Vernier's briefcase disappeared filled with political files. Two weeks later a Secret Service agent returned the briefcase to Vernier, saying that a "concerned citizen" turned it over to the Secret Service. Missing from the briefcase when it was returned was a list of SWP campaign supporters and their phone numbers.

192. On May 24, 1973, in New York City, Norman Oliver's

apartment at 95 Eastern Parkway #6E (Brooklyn) was broken into and political files rifled. At the time Oliver was running on the SWP ticket for mayor of New York.

193. On Dec. 29, 1973, in Denver, the apartment of Margery Vanderslice, Kathleen Shields, and Fern Gapin was burglarized. All the residents were out of town at a YSA national convention. Stolen from the apartment were financial records including a YSA check book, a YSA ledger, a list of contributions from YSA members; minutes of an SWP meeting; and names of individuals throughout Colorado who expressed interest in the YSA.

194. In 1974, in Portland, Maggie McCraw's apartment was broken into and political papers stolen.

195. On Sep. 9, 1974, in Cleveland, the YSA office at Case Western Reserve University was vandalized.

196. On April 29, 1975, in Brooklyn, the offices of the SWP and YSA were broken into.

197. In September 1975, in New York City, Jose Pérez's apartment was broken into and political literature stolen.

G. Post-April 1971 incidents in which servicemen were discharged with less than honorable discharges by the U.S. Army because they supported the SWP or YSA and in which Selective Service registrants were declared unfit for military service because they belonged to or supported the SWP or YSA

Servicemen discharged:

198. Duncan Ward Kennedy, Jan. 21, 1972
199. John Singleterry, Oct. 5, 1971

Selective Service registrants declared unfit:

200. Meyer Alewitz, July 27, 1973
201. David Bliss, Feb. 15, 1972
202. Stephen Bloom, Feb. 18, 1972
203. Robert Mark Brenner, May 9, 1972
204. John Travis Burgeson, Mar. 15, 1972
205. Carl Finnamore, June 15, 1971
206. Richard Gever, November 1970
207. Robert David Gooler, Aug. 31, 1971
208. Duncan Gordon, June 23, 1971
209. William Grettor, Apr. 10, 1972
210. Gregory Guckenburg, Nov. 2, 1971
211. William Sherman Hutton, Sep. 2, 1971
212. James Curtis Jeffries, Jan. 20, 1972
213. Dave Jerome, March 1972
214. Richard Lesnik, May 20, 1971
215. Mark Lobato, July 11, 1972
216. Samuel William Manuel, Oct. 5, 1971
217. Tom O'Brien, Feb. 14, 1972
218. Ted Parsons, August 1972
219. Dennis Richter, Feb. 8, 1972
220. Paul Schneidtlein, June 4, 1971
221. Barry Sell, Jan. 11, 1972
222. Lee Smith, May 20, 1971
223. Jon Teitelbaum, July 20, 1971
224. Tom Tomasko, Nov. 9, 1972
225. Joseph Traugott, Nov. 2, 1971
226. John Votava, June 2, 1971
227. Joe Ward, June 11, 1971
228. David Welters, Feb. 10, 1972
229. Mark Zola, June 11, 1971

APPENDIX VI.—AFFIDAVITS BY MEMBERS OF THE SOCIALIST WORKERS PARTY AND THE YOUNG SOCIALIST ALLIANCE

AFFIDAVIT

I joined the Detroit local of the Young Socialist Alliance in March of 1962 and was an active member of that organization in Detroit, Cleveland, and Seattle until March of 1969. I joined the Detroit branch of the Socialist Workers Party in January of 1963 and was an active member until early 1971. I formally resigned my party membership in March 1971 by writing a letter of resignation which I delivered to the organizer of the Detroit SWP.

My membership in both the YSA and SWP was quite typical. I held a variety of assignments and attended most membership meetings, forums, and conventions held by the two organizations during the years of my membership and took part in the discussions voting, and work of the locals and branches of which I was part.

I have never advocated the violent overthrow of the United States Government nor did the YSA or SWP while I was a member. Furthermore, I have not heard or read of such advocacy being held by the YSA or SWP either before or since the years of my membership.

In the fall of 1965 I was arrested and charged with "disorderly assembly" in Cleveland. This charge was defined as being present at an assembly where a violation of law took place. It was established in court that alcoholic beverages were being sold illegally at the assembly concerned, which was a Socialist Workers Party election campaign banquet and dance. I was arrested at my home for the same charge arising from the same 1965 incident about one year later. The charge against me and others who were present, that of disorderly assembly, was found to be unconstitutional.

In December of 1973 the Civil Service Commission sent me a copy of my letter of resignation to the SWP which I recognized as authentic. Civil Service requested that I define terms I had used in the letter as well as answer questions regarding my membership. The Commission stated that my response was necessary to determine my suitability for continued employment with the Department of the Interior where I am employed as a librarian. Civil Service verified in a legal document dated April 1974 that the acting director of the FBI transmitted my letter of resignation to the Commission in April 1973 as part of an investigative report.

In the fall of 1971, several months after I had resigned from the SWP and after I had left the area, the Detroit SWP offices were burglarized. It is known that address lists of SWP election campaign supporters and other files were stolen. I believe that the FBI obtained my letter of resignation through the burglary at the SWP offices.

In July 1974 the director of the Department of the Interior Library told me that despite her request that I receive a promotion from GS-9 to GS-11 at the end of my first year of service in Janaury 1974 this raise was not approved because my "security clearance" had not been completed. My promotion was finally granted in August 1974. I believe that the FBI-Civil Service investigation of my suitability for continued employment cost me this eight month delay of my promotion.

Notary Public

Norma Jean Lodico

My Commission expires:

April 14 1977

Date: Nov. 14, 1975

November 14, 1975

In mid-November, 1972, I was working as a secretary for L'Mer Engineering, located on Crosby Street in San Diego, California. L'Mer Engineering was a marine engineering firm which mainly did contract work for the United States Navy. There had never been any criticism of my work, and in fact I was steadily given increasing responsibilities.

Suddenly one afternoon my supervisor, Mr. Herbert Padro, called me in and told me the president of the company, Mr. Donald Parsons, had told him to fire me, and said I was to leave immediately, that afternoon. He refused to tell me why I was being fired.

About three weeks later I returned to L'Mer because my last check had not been mailed to me. Parsons called me into his office and, in the presence of Padro, said something like, "Young lady, the FBI was here about you and we know what you are." When I asked why L'Mer hadn't mailed my last check, Parsons said something to the effect of, "The FBI told us you're not living at that address and they're looking for your real address." (The address they had was correct, and I hadn't moved recently.) He also said, "They know about your friend Bonnie too, and they went over to Ets-Hokin to tell them about her." (Bonnie Apthekar was another member of the Socialist Workers Party who worked for an affiliated engineering firm. She was also fired.)

Parsons seemed angry and was quite threatening in his manner, and I did not prolong the discussion any further.

I was a member of the Young Socialist Alliance from 1966 to 1970 and have been a member of the Socialist Workers Party since 1968. At the time this incident occured I was the organizer of the Socialist Workers Party in San Diego.

Neither I nor the Socialist Workers Party advocate or engage in violence or illegal activities.

Matilde Zimmermann

Matilde Zimmermann
4040 W. Washington Blvd. #11
Los Angeles, California 90018
(213) 389-3584

INDIVIDUAL ACKNOWLEDGMENT

State of California
County of Los Angeles } S.S.

On this 14th day of November 1975, before me, the undersigned, a Notary Public in and for said Los Angeles County, personally appeared Matilde Zimmermann

known to me to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same.

(SEAL)

OFFICIAL SEAL
MARIAN UMEMOTO
NOTARY PUBLIC - CALIFORNIA
LOS ANGELES COUNTY
My comm. expires SEP 24, 1978

WITNESS my hand and official seal.

Marian Umemoto

Notary Public in and for said County and State

My commission expires 19

P-000 6-70

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

Bruce L. Bloy, being first duly sworn on oath, deposes and says that:

My name is Bruce L. Bloy. I am 28 years of age, and reside at 2228 N. Magnolia, Chicago, Illinois.

I became a member of the Young Socialist Alliance in January, 1971 and continued to be a member of that organization until July, 1972. I joined the Socialist Workers Party in March, 1972 and have continued my membership until the present.

During or about February, 1972, while employed as a library assistant for Field Enterprises, publisher of the Chicago Sun-Times and the Chicago Daily News, I was asked to report to the office of my immediate supervisor, Mr. William Sannwald, then head librarian. Upon entering his office, Mr. Sannwald informed me that he had been contacted by agents of the Federal Bureau of Investigation. According to Sannwald he was asked whether he was aware of my activity with the Socialist Workers Party, to which Sannwald replied that he was -- I was rather open in talking about my political beliefs. They then asked him about my work record and Sannwald reported to them that it was good. They then asked Sannwald not to inform me of the FBI's inquiries. I left the employ of Field Enterprises in May, 1972 for personal reasons.

From September through December 1972, I was employed at Peer Enterprises, 920 N. Michigan Ave., a typesetting and lay-out shop specializing in the printing of local high school and college newspapers.

At this time I was training as a layout artist. I was also working with the Socialist Workers 1972 Campaign Committee in the capacity of press secretary.

On or about October 20, 1972 I was approached by Jerome Silverman, senior partner at Peer who asked, " Are you involved in some sort of radical political activity?"

In the month and a half that I had been employed at Peer I had not spoken of my political beliefs to anyone other than Steve Beren and Jane Tourtellotte, also employed at Peer, and who were also active with the Socialist Workers Campaign.

I told Mr. Silverman that I was associated with the Socialist Workers Party. He then asked if Steve and Jane were also associated "with this group". I replied that they were.

He asked what the organization did. I said that we primarily ran in election campaigns but were also active in the anti-war movement and the movement for abortion reform.

He said, "Well, I'll tell you. Be careful. They've got you under a microscope. They want to throw you in jail."

A few minutes later Jerome Silverman returned yelling, " I don't think I want Socialists working for me."

I tried to calm him down, pointing out that the three of us had done good work for him and were merely trying to earn a living. I asked him where he received his information about our political activities.

Jerome Silverman said that about two weeks before he had been visited by an agent of the Federal Bureau of Investigation who had told him of our political associations, mentioning that the SWP was on the Attorney General's List of subversive organizations. A week later a second agent visited requesting additional information. On both occasions the agents requested that their inquiries not be divulged.

On or about October 20, 1972, the day of the incident, a person claiming to be a Congressman on the House Internal Security Committee telephoned Mr. Silverman, again inquiring into my activities and insinuating that myself, Steve Beren, and Jane Tourtellotte had been sent from New York to Chicago to fulfill some undisclosed assignment for the Socialist Workers Party.

I pointed out to Mr. Silverman that while Steve Beren had recently moved to Chicago, both myself and Ms. Tourtellotte were long-time residents of Chicago.

Mr. Silverman then said that he felt it was too risky to continue to employ us in that it might jeopardize his business accounts.

At this point, Robert Silverman, junior partner in Peer Enterprises, entered into the arguement, and took his father into the back office. A short time later he emerged and said that we need not be concerned for our jobs and that he and his father had agreed to no longer cooperate with the FBI on such fishing expeditions.

I left the employ of Peer Enterprises in December 1972 for a better occupational opportunity.

My arrest record consists of charges of "disorderly conduct" filed against me in Louisville,Kentucky in April 1967, while participating in a peaceful demonstration sponsored by the Southern Christian Leadership Conference (SCLC) and the

Southern Christian Educational Fund (SCEF), demanding passage of an open housing ordinance in that city. The ordinance under which I was charged was later found to be unconstitutional and the charges were dropped. I have also been cited for minor traffic violations in the city of Chicago.

Neither I nor the Socialist Workers Party advocate or engage in violent of illegal activities.

Bruce L. Dancis

SUBSCRIBED and SWORN to
before me this 31 day of
October, 1975

Notary Public

My Commission Expires July 12, 1978

APPENDIX VII.—DOCUMENTS REFERRED TO IN STATEMENT OF MS. LORI PATON

UNITED STATES GOVERNMENT App. 1)

Memorandum

SAC, NEWARK (P) DATE: 3/23/73

SA JOHN HUGH DRYAN

LORI PATON
SM - SWP

Re New York letter to Newark dated 2/28/73.

On 2/14/73, [source] advised one LORI PATON, Mile Drive, Chester, N.J., had been in contact with the SWP National Office, 410 West Street, New York City.

Newark indices negative re PATON.

The following sources, who are familiar with certain phases of subversive activity in the State of New Jersey, were contacted during March, 1973, for any information connecting the subject with subversive activity with negative results:

[sources and informants deleted]

LEAD:

NEWARK

At Chester, N.J. Contact sources and conduct criminal investigation regarding LORI PATON, Mile Drive, to determine if she is involved in subversive activity.

1 - (SOCIALIST WORKERS PARTY)
JHB:nas
(3)

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Paton Exhibit B

App. 5

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION
Post Office Box 1158
Newark, New Jersey 07101
July 6, 1973

In Reply, Please Refer to

Frank Askin, Esq.
Constitutional Litigation Clinic
Rutgers University School of Law
103 Washington Street
Newark, New Jersey 07102

Dear Mr. Askin:

Your letter dated June 13, 1973, made inquiry on behalf of Ms. Lori Paton and Mr. William Gabrielson.

After carefully reviewing the facts in this matter, I have concluded there was no impropriety on the part of investigative personnel of this Bureau and that the FBI has no knowledge of any letter Ms. Paton may have sent to the Socialist Labor Party. You may be assured that Ms. Paton is not the subject of an investigation by this Bureau and that the FBI does not maintain a general policy of surveillance of correspondence of political groups such as the Socialist Labor Party.

Very truly yours,

J. Wallace LaPrade

J. Wallace LaPrade
Special Agent in Charge

APPENDIX VIII.—FBI MEMORANDUM OF JANUARY 8, 1976, RELATING TO NUMBER OF SOURCES EMPLOYED IN BUREAU'S INITIAL INVESTIGATION OF THE INSTITUTE FOR POLICY STUDIES

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

62-116464

January 8, 1976

U. S. HOUSE SELECT COMMITTEE
ON INTELLIGENCE ACTIVITIES (HSC)

RE: REQUEST FOR DECLASSIFICATION
OF CERTAIN FBI DOCUMENTS

Reference is made to HSC letter dated December 11, 1975, which requested that certain documents referred to during the HSC hearing of November 18, 1975, be declassified for inclusion in the HSC report.

Certain of these documents in question pertain to the Administrative pages of an FBI report on the Institute for Policy Studies (IPS), dated March 14, 1969. This document, along with others, was originally furnished to the HSC on November 14, 1975, in accordance with instructions received from the Department of Justice in response to a request from the HSC.

It is the FBI's position that this document, even though it is unclassified, should not be released to the public.

In an effort to be responsive to the HSC's request, it was agreed at a meeting on January 7, 1976, between Ms. Ellen Miller of the HSC staff and FBI representatives, that the following explanation regarding the cover pages of the aforementioned report would suffice for inclusion in the HSC report in lieu of the Administrative pages included in the HSC report;

FBI report on the IPS, dated March 14, 1969, and submitted by the Washington Field Office (WFO) of the FBI, was the initial report prepared on the IPS. The Administrative pages of this report contain the identities of FBI field offices receiving copies of this report; the justification for classifying the report; the identities of certain sources, along with the identities of the Agents contacting these sources and the dates;

This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI.

identities of individuals mentioned in the body of the report who, at that time, were under investigation or were on the Security Index, which has since been discontinued; identities of Special Agents conducting certain phases of investigation and investigative leads for recipient field offices. The Administrative pages also include a list of existing sources familiar with New Left and Racial matters in the Washington, D. C., (WDC) area who were contacted in February, 1969, concerning IPS, with negative results. None of the sources listed were established for the purpose of penetrating the IPS. The Administrative pages of this report also contain a list entitled "Informants," which is a list of 52 sources, many of whom were not confidential informants, but who, confidentially, furnished information on either the IPS organization or individuals known to be associated with IPS. It is noted the sources and informants listed on these pages were set forth by numeric designation only, and their actual identities were not revealed.

APPENDIX IX.—MEMORANDUMS SUBMITTED BY DEPARTMENT OF JUSTICE RELATING TO 17 "KISSINGER WIRETAPS"

TOP SECRET

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

May 12, 1969

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: COLONEL ALEXANDER M. HAIG
TECHNICAL SURVEILLANCE REQUEST

On May 10, 1969, Colonel Alexander M. Haig, who is assigned to Dr. Henry A. Kissinger's staff, came to this Bureau to advise that a request was being made on the highest authority which involves a matter of most grave and serious consequence to our national security. He stressed that it is so sensitive it demand handling on a need-to-know basis, with no record maintained. He requested that telephone surveillance be placed on the following individuals to determine if a serious security problem exists:

(Names of four individuals)

and

is aged and is Department of employee who has been on detail to the National Security Council since He was assigned to the Paris peace conference between Applicant-type investigation by this Bureau indicated, while in Paris, he reportedly

aged was detailed from the Department of to the National Security Council as a senior staff member on He was the subject of an applicant-type investigation by this Bureau. While admittedly he has had contact with Soviet nationals the investigation did not disclose at that ti any pertinent derogatory information.

The files of this Bureau contain no identifiable information concerning

aged was detailed to the National Security Council on from the Department of where he had been employed in various administrative capacities since An applicant-type investigation disclosed that during mid s and early s he was suspected of

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Memorandum for the Attorney General
RE: COLONEL ALEXANDER M. HAIG

Thorough investigations were conducted by Department of
however, no information was developed indicating he
was.

Colonel Haig is Military Assistant to the Assistant to the President for National security affairs. He was the subject of an applicant-type investigation and no derogatory information was developed concerning him.

This Bureau is in a position to conduct the necessary telephone surveillances requested by Colonel Haig.

Respectfully,

J. Edgar Hoover

John Edgar Hoover
Director

APPROVED J. Edgar Hoover

DATE 5/12/69

OFFICE OF THE DIRECTOR

TOP SECRET

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

May 20, 1969

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: COLONEL ALEXANDER M. HAIG.
TECHNICAL SURVEILLANCE REQUEST

My memorandum of May 12, 1969, reported that Colonel Alexander M. Haig, who is assigned to Dr. Henry A. Kissinger's staff, advised this Bureau that a request for telephone surveillances was being made on the highest authority which involved a matter of most grave and serious consequence to our national security. He stressed that because of its sensitive nature, it should be handled on a need-to-know basis, with no record maintained. In response to his request, you authorized telephone surveillances on (names of two individuals)

On May 20, 1969, Colonel Haig presented an additional request advising that it was also being made on the highest authority in connection with the same sensitive matter. He requested that telephone surveillances be placed on and (both of whom are on the staff of the National Security Council.

is aged and served as a staff member with the National Security Council, Washington, D. C., from to From 1968, to he was a member of the research staff of

Since he has again been serving as a staff member of the National Security Council. Applicant-type investigations by this Bureau in 1966 and in 1969 disclosed no unfavorable information of a security nature concerning him.

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Memorandum for the Attorney General
RE: COLONEL ALEXANDER M. HAIG

is aged and was employed from to by the Department of He is currently on the staff of the National Security Council. Applicant-type investigations were conducted by this Bureau concerning him in 1951, 1961, and in 1969. The investigations disclosed no pertinent derogatory information of a security nature.

resides at
resides at

This Bureau is in a position to conduct the necessary telephone surveillances requested by Colonel Haig.

Respectfully,

J. Edgar Hoover

John Edgar Hoover
Director

APPROVED

DATE 5/20/69

P.M. - 5/20 - Sent Gayler, WPO, memo advising Bureau desires Cinc. to consult Gen. Wheeler re installation on Joint C, Jan

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UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

May 29, 1969

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: COLONEL ALEXANDER M. HAIG
TECHNICAL SURVEILLANCE REQUEST

My memoranda of May 12, 1969, and May 20, 1969, reported that Colonel Alexander M. Haig, who is assigned to Dr. Henry A. Kissinger's staff, advised this Bureau that a request for telephone surveillances was being made on the highest authority which involved a matter of most grave and serious consequence to our national security. He stressed that because of its sensitive nature, it should be handled on a need-to-know basis, with no record maintained. In response to his request, you authorized the requested telephone surveillances.

On May 28, 1969, Colonel Haig presented an additional request in connection with the same sensitive matter. He requested that a telephone surveillance be placed on

resides at
Washington, D. C., and is with
Recently he has been telephonically in contact with
on whom you authorized a telephone surveillance in captioned case.
is extremely active in Washington and has developed very sensitive high level contacts.

If you approve, a telephone surveillance will be placed by this Bureau on

Respectfully,

J. Edgar Hoover

John Edgar Hoover
Director

APPROVED Ramsey Clark

DATE 5/29/69

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UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

June 4, 1969

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: COLONEL ALEXANDER M. HAIG
TECHNICAL SURVEILLANCE REQUEST

My memorandum of May 29, 1969, as did two previous memoranda, reported that Colonel Alexander M. Haig, who is assigned to Dr. Henry A. Kissinger's staff, advised this Bureau that a request for telephone surveillances was being made on the highest authority which involved a matter of most grave and serious consequence to our national security. He stressed that because of its sensitive nature, it should be handled on a need-to-know basis, with no record maintained. You authorized the requested telephone surveillances.

On this date Dr. Kissinger has requested that a telephone surveillance be placed on He is also known as He is a correspondent with and has been in contact with the individuals on whom telephone surveillances have been placed. He resides at Washington, D. C., and has telephone number The files of this Bureau contain no pertinent information of an internal security nature concerning him.

Upon your approval, a telephone surveillance will be placed on at his residence.

Respectfully,

J. Edgar Hoover

John Edgar Hoover
Director

APPROVED J. Edgar Hoover

DATE 6/4/69

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UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

July 23, 1969

Mr. Tolson	
Mr. DeLoach	
Mr. Mohr	
Mr. Bishop	
Mr. Casper	
Mr. Callahan	
Mr. Conrad	
Mr. Felt	
Mr. Gale	
Mr. Rosen	
Mr. Sullivan	
Mr. Tavel	
Mr. Trotter	
Tele. Room	
Miss Holmes	
Miss Gandy	

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: TECHNICAL SURVEILLANCE REQUEST

This will confirm your conversation with Assistant to the Director Cartha D. DeLoach on July 22, 1969, during which you advised that a telephone surveillance was desired on ____ who resides in Virginia.

A survey is being conducted to determine the feasibility of instituting a telephone surveillance on ____. If you approve, a telephone surveillance will be placed by this Bureau on him.

Respectfully,

J. Edgar Hoover

John Edgar Hoover
Director

APPROVED John N. Mitchell

DATE 7/23/69

Higher Authority has requested that this be done immediately for use prior to Thursday.

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UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

August 4, 1969

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: COLONEL ALEXANDER M. HAIG
TECHNICAL SURVEILLANCE REQUEST

Previous memoranda have requested and you have approved telephone surveillances requested by Colonel Alexander M. Haig, who is assigned to the staff of Dr. Henry A. Kissinger of the White House.

Colonel Haig has now presented an additional request advising that it is being made on the highest authority in connection with the same sensitive matter. He requested that a telephone surveillance be placed on of the White House staff.

resides at and has unlisted telephone number

Recently, was in contact with on whom you previously authorized a telephone surveillance in this case. agreed to advise in advance of the contents of to be made in the future by the President.

Respectfully,

J. Edgar Hoover

John Edgar Hoover
Director

APPROVED: John A. Mitchell

DATE: 8/4/69

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UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

September 10, 1969

MEMORANDUM FOR THE ATTORNEY GENERAL

RE:

Pursuant to your request, a telephone surveillance will be placed on captioned individual upon receipt of your written approval.

is a correspondent in Washington, D. C., for the He has previously worked abroad for in several countries, including the Soviet Union. (No information pending to indicate activity relative to contacts with hostile intelligence service)

During interview in 1967, by Agents of this Bureau, he readily volunteered information concerning his contacts with Soviet-bloc personnel, but indicated he was not aware that any of them might have had intelligence significance, but if such should occur he would promptly contact the FBI.

Available information indicates that resides at Washington, D. C. This Bureau will place a telephone surveillance at his residence upon receipt of your written approval. In view of the sensitive nature of this investigation, no record is being made concerning the coverage and it is requested that this memorandum be returned upon approval.

Respectfully,

J. Edgar Hoover

John Edgar Hoover
Director

APPROVED John A. Mitchell

DATE 9/11/69

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This document is prepared in response to your request and is not for dissemination outside your Committee. Its use is limited to official proceedings by your Committee and the content may not be disclosed to unauthorized personnel without the express approval of the FBI.

[COMMITTEE NOTE.—The four documents which follow, all dated May 4, 1970, involve wiretaps on four separate individuals.]

OFFICE OF THE DIRECTOR

TOP SECRET

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

May 4, 1970

MEMORANDUM FOR THE ATTORNEY GENERAL

RE:

TECHNICAL SURVEILLANCE REQUEST

On the evening of May 2, 1970, Brigadier General Alexander M. Haig, of the National Security Council Staff, advised that a serious security leak had occurred concerning United States involvement in Cambodia. He requested that as soon as possible a telephone surveillance be instituted, if feasible, on the residence and office of

A survey is being conducted to determine if it is feasible to install a telephone surveillance on him. If it is determined to be feasible and you approve, this installation will be placed by this Bureau.

Respectfully,

J. Edgar Hoover

John Edgar Hoover
Director

Approved: John N. Mitchell

Date: 5/4/70

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UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

May 4, 1970

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: [redacted]

TECHNICAL SURVEILLANCE REQUEST

On the evening of May 2, 1970, Brigadier General Alexander M. Haig, of the National Security Council Staff, advised that a serious security leak had occurred concerning United States involvement in Cambodia. He requested that as soon as possible a telephone surveillance be instituted, if feasible, on the residence and office of [redacted].

A survey is being conducted to determine if it is feasible to install a telephone surveillance on him. If it is determined to be feasible and you approve, this installation will be placed by this Bureau.

Respectfully,

J. Edgar Hoover

John Edgar Hoover
Director

Approved: John N. Mitchell

Date: 5/4/70

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UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

May 4, 1970

MEMORANDUM FOR THE ATTORNEY GENERAL

RE:

TECHNICAL SURVEILLANCE REQUEST

On the evening of May 2, 1970, Brigadier General Alexander M. Haig, of the National Security Council Staff, advised that a serious security leak had occurred concerning United States involvement in Cambodia. He requested that as soon as possible a telephone surveillance be instituted, if feasible, on the residence and office of

A survey is being conducted to determine if it is feasible to install a telephone surveillance on him. If it is determined to be feasible and you approve, this installation will be placed by this Bureau.

Respectfully,

J. Edgar Hoover

John Edgar Hoover
Director

Approved: John N. Mitchell

Date: 5/4/70

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UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

May 4, 1970

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: [redacted]

DEPARTMENT OF
TECHNICAL SURVEILLANCE REQUEST

On the evening of May 2, 1970, Brigadier General Alexander M. Haig, of the National Security Council Staff, advised that a serious security leak had occurred concerning United States involvement in Cambodia. He requested that as soon as possible a telephone surveillance be instituted, if feasible, on the residence and office of [redacted].

A survey is being conducted to determine if it is feasible to install a telephone surveillance on him. If it is determined to be feasible and you approve, this installation will be placed by this Bureau.

Respectfully,

J. Edgar Hoover

John Edgar Hoover
Director

Approved: John N. Mitchell

Date: 5/4/70

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UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

May 13, 1970

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: TECHNICAL SURVEILLANCE REQUEST

On May 12, 1970, Brigadier General Alexander M. Haig of the National Security Council Staff, advised that Dr. Henry A. Kissinger of the White House staff, had requested that as soon as possible a telephone surveillance be instituted on the home of of the National Security Council Staff.

A survey has been conducted and it has determined that the installation of this telephone surveillance is feasible. If you approve, this installation will be placed by this Bureau.

Respectfully,

J. Edgar Hoover

John Edgar Hoover
Director

APPROVED John N. Mitchell

DATE 5/13/70

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Subject to Criminal Sanctions

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TOP SECRET

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

October 16, 1970

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: SPECIAL COVERAGE AT THE
REQUEST OF THE WHITE HOUSE

The Honorable H. R. Haldeman, Assistant to the President, has requested that the telephone surveillance on be reinstituted.

is an employee of the U. S. Department of You previously approved a telephone surveillance of him on May 12, 1969, which was discontinued on June 20, 1969.

This Bureau is in a position to conduct the necessary telephone surveillance requested by Mr. Haldeman.

Respectfully,

J. Edgar Hoover

John Edgar Hoover
Director

APPROVED J. Edgar Hoover

DATE 10/19/70

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downgrading and
declassification

OFFICE OF THE DIRECTOR

TOP SECRET

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

December 14, 1970

MEMORANDUM FOR THE ATTORNEY GENERAL

RE: SPECIAL COVERAGE AT THE REQUEST OF THE WHITE HOUSE

The Honorable H. R. Haldeman, Assistant to the President, has requested that the Bureau institute a telephone surveillance on the home telephone of

This Bureau is in a position to conduct the necessary telephone surveillance requested by Mr. Haldeman.

Respectfully,

J. Edgar Hoover

John Edgar Hoover
Director

APPROVED J. Edgar Hoover

DATE 12/14/70

TOP SECRET

NATIONAL SECURITY INFORMATION
Unauthorized Disclosure
Subject to Criminal Sanctions

APPENDIX X.—ADDITIONAL MATERIALS SUBMITTED BY FBI RELATING TO QUESTIONS ASKED AT THE COMMITTEE'S AUGUST 7, 1975, HEARING

OFFICE OF THE DIRECTOR

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

62-116464

December 2, 1975

U. S. HOUSE SELECT COMMITTEE
ON INTELLIGENCE ACTIVITIES (HSC)

RE: REQUESTS MADE OF FBI AND
DEPARTMENT OF JUSTICE
REPRESENTATIVES DURING
TESTIMONY ON AUGUST 7, 1975

During testimony of Assistant Director Eugene Walsh before the HSC held on August 7, 1975, the Committee, on pages 1252 and 1253 of the transcript, requested information concerning how the Mississippi Civil Rights Investigations were reflected in the Bureau budget.

In response to the above, you are advised that FBI funds have not been and are not budgeted specifically for any particular type of investigation such as civil rights investigations. Rather, funds for all our field investigative efforts are contained in one subactivity, "Security and Criminal Investigations -- Field Investigations." Funds for the Headquarters supervision of the FBI investigative activities are contained in the budget subactivity, "Security and Criminal Investigations -- Coordination." Expenditures in connection with all investigations are charged against these subactivities.

While funds are not budgeted for specific types of violations, in providing justification for funds requested, FBI officials do provide testimony before the Congressional Appropriations Committees with regard to workloads being experienced and anticipated in the major investigative categories. For example, on March 4, 1965, former Director Hoover provided detailed testimony before the House

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RE: REQUESTS MADE OF FBI AND DEPARTMENT OF JUSTICE REPRESENTATIVES DURING TESTIMONY ON AUGUST 7, 1975

Appropriations Subcommittee regarding civil rights activities, including testimony concerning the murders of the civil rights workers in Mississippi.

Pages 1314 and 1315 of above-mentioned request contain an inquiry concerning the use of FBI computers.

In response to that request, the following descriptions of automated information systems operated by the FBI are submitted:

The FBI Identification Division has been the national repository for fingerprint records since 1924. In 1971, Rockwell International conducted a systems requirements study regarding the automation of the manual functions of the Identification Division. On August 30, 1973, the Division began automating the arrest records of first-offender criminals through the Automated Identification Division System (AIDS). As of July 1, 1974, all first-offender criminals were being added to this file causing it to grow at a rate of about 3,000 records per day. As of November 24, 1975, the total records in this file were 1,385,349. The AIDS project includes the research and development efforts associated with the FINDER fingerprint reader, a special purpose device which automatically reads standard fingerprint cards and stores the data in computerized form.

The National Crime Information Center (NCIC) is an on-line information system containing over 6 million records relating to stolen property, wanted persons, missing persons and criminal histories. Federal, state and local criminal justice agencies have access to this system via a dedicated teleprocessing network.

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The FBI collects and tabulates monthly and annual statistics of selected crimes reported to law enforcement agencies committed in the United States. The Uniform Crime Reports (UCR) automated information system provides support in assembling and processing the crime statistics utilized in the preparation and production of the UCR publications, including "Crime in the United States."

The AIDS, NCIC and UCR systems provide support for the entire criminal justice community.

The Cryptanalysis Support System is a classified and dedicated Automated Data Processing (ADP) system which performs mathematical and related calculations associated with the FBI's cryptographic examination efforts.

The FBI, an agency of approximately 20,000 employees and an annual budget of $468,700,000, utilizes ADP as an administrative and management tool. The FBI's payroll is completely automated. Personnel matters, such as promotion and transfer, are managed through an on-line personnel data system. Efforts are now underway to automate the FBI's budget by implementing a management information system. Several computer programs provide statistics required to properly administer the FBI. All of these individual efforts make up the Bureau Administrative Support Information System (BASIS).

The Investigative Support Information System is composed of all ADP efforts which directly support the FBI's investigative mission. In recent years ADP has been utilized to directly support investigations. Many cases involve handling large volumes of investigative data in computerized form which are printed, sorted and/or searched by FBI ADP

equipment. Without the availability of necessary ADP equipment, many of these cases could not possibly be handled expeditiously, efficiently or accurately. Direct assistance has also been provided to the Antitrust Division of the Department of Justice. The FBI's automation effort directly involving investigation of major cases has more than doubled during Fiscal Year 1975.

The FBI's Files and Communications Division manages intra-Bureau communications and the records files. A major portion of the FBI's ADP efforts involve automation of several functions of the Files and Communications Division. This includes automating the General Index, the Central Records filing system and the Secure Teletype System.

During Fiscal Year 1975, the FBI spent a total of $8,261,000 on ADP. The cost includes hardware purchase and rental, maintenance, software acquisition, telecommunications in support of ADP, staff, space and supplies. Of that total, $8,001,000 was the cost of performing the ADP work of the Data Processing Section, Computer Systems Division. The remainder was the cost of operating the FBI Laboratory Division's classified Cryptanalysis Support System.

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